

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

August 26, 1999

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, August 26, 1999 at 1:00 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bill Johnson, Chair; Chris Carraher; John C. Frye; Frank Garofalo; Bud Hentzen; Ron Marnell; John W. McKay, Jr.; Jerry Michaelis (late arrival); Susan Osborne-Howes (late arrival); George Platt; Ray Warren; and Deanna Wheeler. George Fulp and Richard Lopez were not present. Staff members present were: Marvin S. Krout, Secretary; Keith Gooch, Senior Planner; Donna Goltry, Senior Planner; Lisa Verts, Senior Planner; and Karen Wolf, Recording Secretary.

#### **1. Approval of the minutes for May 27, 1999 and June 10, 1999 meetings.**

**MOTION:** That the Planning Commission approve the minutes of May 27, 1999 and June 10, 1999 as submitted.

**FRYE** moved, **CARRAHER** seconded the motion, and it carried unanimously (10-0).

-----

**KROUT** "I just want to take this opportunity to introduce you David Barber. He is our new Land Use Research supervisor. That will allow Ray Ontiveros to focus on some other projects like neighborhood planning, geographic information systems, addressing, and some other issues that haven't gotten all of the attention that we would have liked for them to. David comes to us originally from Canada. He has spent most of his career in the Edmonton, Alberta area in planning roles. For the last several years, though, he has been a City/County Planning Director for Grand Island, Nebraska in Hall County, surrounding Grand Island, Nebraska. We are very glad to have him. You will be visiting with him soon as part of the Comprehensive Plan discussions that we hope to be having over the next couple of months."

#### **2. Determination of consistency between City of Wichita Capital Improvements Program and the Comprehensive Plan.**

**KROUT** "We are asking the Planning Commission to find that the City of Wichita's Capital Improvements program is consistent with the Comprehensive Plan. We have gone through and found no new projects that are not consistent with the plan. It is part of your statutory responsibility to do that before any capital improvements can be constructed by the City and the County. That finding is necessary so that we can go on to meet the federal requirements and place the nearer term items into what is called the Transportation Improvement Program, that is going to be prepared later this year. So unless you have any questions about the Capital Improvement Program, you were briefed by Mike Lindebak about a month ago on the proposed program. At that time, some of the priorities had not yet been set. Since that time, I think it was August 12, the City County did adopt the Capital Improvement Program. If you have suggestions about reprioritizing the projects, we can still make those comments, but they did establish the Capital Improvement Program, including at least the projects they anticipate building in the year 2000."

**MCKAY** "I have a question. This is just for the City, right?"

**KROUT** "Yes, this is the City."

**MCKAY** "Okay."

**JOHNSON** "Are there any other questions or discussion?"

**WHEELER** "I would just like to make a brief comment. I do think that in light of some of the discussions that have taken place in our Comprehensive Plan planning sessions, that they may want to look at capital improvement programs for neighborhood improvements that may enhance some of the things that we have talked about, whether it be park improvements, lighting improvements, infrastructure improvements, that they may not have considered for future planning."

**KROUT** "We will make those comments and you will have an opportunity again, as we go forward with the Comprehensive Plan itself, to make them."

**JOHNSON** "Are there any other comments or questions? What is the pleasure of the Commission?"

**MCKAY** "Marvin, do we need to give our approval on this?"

**KROUT** "We need a motion that you find the C.I.P. to be consistent with the Comprehensive Plan."

**MOTION:** I move that the Metropolitan Area Planning Commission find that the City of Wichita Capital Improvements Program is consistent with the Comprehensive Plan.

**MCKAY** moved, **PLATT** seconded the motion, and it carried unanimously (10-0).

---

**3. Comments on City Council report on citizen involvement.**

**KROUT** "This item concerns what the City Council is now discussing, which is the possible restructuring of the City Participation Organization (CPO), and if we have enough time, we will continue the discussion later in the afternoon. I think it was last May, for those of you who were on the Commission at the time, we passed out a report that was done by a Task Force of the City Council, dealing with recommendations for restructuring the CPO into something similar to what the City Council report now calls District Advisory Boards. We provided that report to you at your August 12 meeting. I understand now that there is going to be some sort of public hearing on September 9 to get public comments about this proposal to restructure CPOs into District Advisory Boards. I assume that you had a chance to look at it.

The basic concept is that members would be appointed rather than elected, and they would represent various interests, including schools, business groups, development interests, as well as neighborhood areas. Maybe there would be some elected still, that is yet to be determined. Also, the boards would not any longer be a part of the process of reviewing individual cases for zoning. As you know, every time we send out a notice that is within the city limits now, we send out a notice of a CPO hearing and a Planning Commission hearing. The CPO has their hearing and usually you get their comments before you make your recommendation on zoning items, or occasionally other items like vacation cases or ordinance amendments, but primarily, with zoning related cases.

This proposal would change the nature, apparently, of how the CPO currently works, where they would be involved in planning and in capital improvements for neighborhoods, but they wouldn't be involved in reviewing individual zoning items. The report also does have some recommendations for the MAPC, I guess in recognition that some of this is going to change in the future, and talked about how now the Planning Commission would now be responsible for public participation. It suggests that the MAPC should meet in the evenings at least once a month to allow opportunity for all citizens to participate, should make and encourage mediation or education sessions between developers, staff and citizens, and should be involved with neighborhood visioning meetings. And it also talked about the MAPC assuring representation of all community interests by their appointment.

Michaelis arrived at the meeting at 1:12 p.m.

I wanted the Planning Commission to have an opportunity to comment to the City Council before they decide what they are going to do with this process and to comment, both on the idea of the District Advisory Boards on the issue of whether or not District Advisory Boards are not going to be involved in the zoning process to provide some sort of substitute before Planning Commission hearings, and also about how this may affect the Planning Commission, including the subject of evening meetings that was brought up in their report. And also, if you are going to be meeting evenings, and if you are going to be accepting even more responsibility, whether or not this is maybe a good time to think the concepts for restructuring the Planning Commission. So that not all 14 members hear every zoning case, and not all 14 members hear every subdivision item, but you maybe only get all together to discuss the larger picture issues, and can divide the responsibilities for looking at individual cases. That may give you more flexibility. It should reduce the time that any single Planning Commissioner has to spend on all of the items that we deal with and also maybe get you more flexibility to deal with, the possibility of evening meetings, or meetings even outside of City Hall.

So, that is just kind of an introduction, and if you have questions, I will try to answer them about what is intended here. I think the City Council is going to get a lot of feedback from a lot of different sources. If you want to spend some more time thinking about it, or making recommendations to the City Council, that is fine, but I think the City Council will be looking for some sort of recommendations and responses from the MAPC about this report."

**MCKAY** "My one comment is that the evening meetings, I don't think it would be a very good idea to have evening meetings if we are going to have a regular meeting where we are going to have something that is going to take us three hours, like going into Subdivision stuff and things like this. Is it going to be more of a controversial-type thing?

I don't disagree with the Subdivision approving the plats and not having to have them come to this group, and maybe the zoning, but I still think we ought to meet like we are doing it right now. The only thing is that Advance Plans maybe could meet a little more often. But I still think that MAPC ought to meet like this, every other week. I don't think that this Commission needs to be split into two or three different groups to make decisions."

**KROUT** "It's just that occasionally you have meetings that run for six or seven hours. If they start at 7:00....."

**MCKAY** "Well, that is going to have to be on an evening meeting. What is going to have to happen is that the schedule you publish, it says that if you get it in by this date, it gets on that date or this date. If you don't, if you think you lose a quorum now at 7:30, think what you are going to lose at 11:00. That is where I am coming from."

**KROUT** "The advantage of dividing the Planning Commission is that you would be dividing the docket. You would have different committees and each committee wouldn't have to deal with 16 zoning cases in one evening. We will take every zoning case until the deadline, because if we start saying no, we are going to stop at eight cases, first of all, we start delaying people and then we start just stacking up for the next meeting."

**MCKAY** "I guess where I am coming from is that if the Subdivision Committee approves plats, then let them approve the plats and it doesn't come before this body unless there is some controversy, a protest or something. What we do in Subdivision is that we sit and go through every one of these things. For the last three years, there has been at least two or three that we have discussed at length in this group. In 90 per cent of the cases, the people who are doing the discussing don't have the background and don't know what is going on. Somebody either called them or they saw something they didn't like.

I think practically everybody who has been here any length of time has been on the Subdivision Committee, and we go through quite a lot of extended discussion, and that is where we work the things out. Do I want the Planning Commission split and divided? No. That is just me. I think it is a Commission and if we have sub committees that have to meet on a separate day, I still think we ought to stay the way we are. If you want a Commission that will review zoning, like we review plats and vacations, and let them bring them back, but I still think this committee is the committee that has to have the final say on the zoning and plats.

I guess being on the Subdivision Committee; it really bothers me that we spent, for example, not too long ago, we spent several hours in Subdivision. There were protestors and we heard them all. The following week, the same protestors were back. We went ahead and approved it, it went to the City Council and we are now in a lawsuit."

**KROUT** "Right. I guess my question for you is, was it really necessary and worthwhile for some people to sit through that hearing twice? And for everyone to sit through it once?"

**MCKAY** "I can see that happening at an evening meeting. You are going to have to be very selective on an evening meeting as to what we hear. And if the whole idea is to hear the public come in and testify, and if we sit here for three or four hours now in the middle of the day, what will we be doing at 7:00 o'clock at night?"

**KROUT** "Right. You are going to have more people here. I will give you the example of that car wash where there were 20 people who showed up at the CPO meeting and one person showed up on Thursday afternoon."

**MCKAY** "That is what I am saying."

**WHEELER** "Does the City Council have any evening meetings, or are all of theirs daytime meetings?"

**MCKAY** "They don't get any public input."

**KROUT** "Once in a great while they will have an evening meeting, but it is very unusual. Just like once in a great while we will have an evening meeting on the Comprehensive Plan here, or something like that."

**WARREN** "I agree with John (McKay) completely on this. I think there is a pretty good balance on the Planning Commission at this time. We are making changes all of the time, but I think we would maybe deny the process of not having that balance if we go into seven member groups. They could almost oppose each other. They could be of different philosophies, different feelings. I almost see the fear of assigning cases to one or the other. Who is going to make that assignment? So, I am going to oppose, with everything I have, the idea of breaking this thing up into the final authority.

The other thing, too, that I want to ask you, Marvin, is about this response you are saying that we really should have. What would be the format of that? Would that be something that our chairman and you would maybe work up so that we could all have input? I guess I hate to see all of our responses come from the Planning Department. I think that somebody on this Commission, this board, ought to have a lot of input to those, and that ought to be pretty much in the flavor of this Commission and not of any one person."

**KROUT** "I wasn't planning on drawing up anything. I was hoping that maybe there would be a motion and we could find out if the Planning Commission wants to forward a recommendation, or not."

**WARREN** "I, for one, would say that I am in complete agreement with this concept of the new advisory board. Complete agreement. The whole idea of having to have an applicant meet all of the rules and regulations set out herein in this subdivision regulation Zoning Ordinance, and then further to have to comply with the CUPs, which we get away from regulations on and start drafting regulations ourselves. Then the third requirement, that they have to go out and convince their neighbors that they ought to welcome, is just about more than business can stand. So I agree that people have to be notified, but the zoning process can't be one of popularity. We have a bigger obligation to the minority, which in this case quite often is business. Business does have a place that they play, and it may not be in a popular vote. So, I am glad to see the CPOs take a step aside in favor of this advisory board."

**MCKAY** "Would an evening meeting be like meeting with maybe the advisory boards? Because if they are going to be out there in the field and getting the input from the neighbors; I am not talking about a specific case now, as much as I am a general consensus of the general idea."

**KROUT** "I think they are suggesting that the Planning Commission meet occasionally with these boards, but as I understand it, these boards are going to be meeting much more occasionally themselves than the CPO did. They are not going to be regular meetings like the CPOs have them, twice a month.

You recall another thing that we have talked about in the past year, around the first of the year, was the idea of what we were calling 'pre-application meetings'. We weren't satisfied that the CPO process necessarily did a good job of communicating with people about what zoning was all about and what the process was about, and what someone's request was about. I think we even said that maybe this would be a good substitute for the CPO.

Even if the MAPC went to evening meetings, you are the first place where people are learning, usually, for the first time, what zoning is all about, and what someone's request is all about. I think you will have long meetings, a lot of question marks that people have, and you will end up in more cases than now, probably, deferring items and delaying the applicants, because the two sides haven't gotten together and they haven't tried to understand each other in the process.

Our preference has been that we try to encourage people to get out there before they even file applications and have meetings like that and discussions with a development committee. The Homebuilder's Association, I think their suggestion was that some sort of information meetings like we were suggesting could be helpful, in fact they could be more positive than the current CPO meetings, which is kind of confrontational. It is a hearing, but it immediately becomes a sort of 'us versus them' because you know the CPO is going to be voting on the case.

But the response we got from the homebuilders and realtors was that we don't want to delay the process any longer by requiring someone to have a meeting before they file, and that sometimes there are issues that can't be disclosed earlier in the process, and also there was a concern that we may be creating more time to allow for the opposition to be developed as a result of providing information about zoning cases.

If pre-applications don't work, and even if you go to evening meetings, what I have talked to our Current Plans staff about--, and I am sorry that Dale is not here this evening, and maybe Keith can chime in--, but I know it is a big load, and I am not sure how we are going to do it without some assistance from what is now the CPO staff. But it seems to me that if CPO is no longer in the picture, the first time people find out about, and hear and learn about what this is all about, what the zoning request is about by attending a meeting, whether it is an afternoon or an evening meeting of the MAPC, that is not what the City Council is looking for in terms of improving communication and improving dialog and understanding.

So I think that at the least what we would have to do is to substitute what is now that CPO meeting for a staff meeting that is after someone files, but before they get to the MAPC. We would go out and have an evening informational meeting at a convenient time and place for neighbors and for the applicant, to try to get an understanding of what this is about and see if we can maybe keep some people from even having to show up at your meetings to try to figure out, for the first time, what it is about.

But that is a big load for us. Right now, we rely on the CPO. We kind of pick and choose which meetings to attend. The meetings are already set up. We don't have to figure out where we are going to have a meeting and when. We pick and choose and try to identify the controversial cases, where we send staff members; we don't go to every single meeting of the CPO. So this means a lot more work for us to do, unless we can get some assistance from what is now the CPO staff or some other way to make that substitute. But I would suggest to you that it is really important, if not before an application is filed, then after, but before an MAPC meeting, whether you do evening meetings or not, that we need to be out there, trying to facilitate dialog between people, so that we don't have lots of question marks and lots of confrontation here in the Planning Commission meetings."

**GAROFALO** "Isn't that one of the recommendations in this new proposal?"

**KROUT** "I think it is very vague and it needs to be flushed out in detail."

**GAROFALO** "I didn't think it was too vague. I thought it was pretty obvious what they were saying."

**KROUT** "But they were pointing the finger at MAPC, saying that you needed to do more work."

**GAROFALO** "I thought it was kind of a follow-up on what you had proposed some months ago."

**KROUT** "Oh, you thought so?"

**GAROFALO** "Yeah. That was my thought when I read it. But also, I, for one, think that eliminating the CPO from any of the zoning is, to me, diametrically opposed to what the City Council keeps talking about, about getting people, the citizens involved. It seems to me that throwing all of that out is silly from where it stands. They keep claiming that they want to make sure that people know what is going on. I think there will be a bigger problem with the public if this thing is instituted as it is currently proposed."

**KROUT** "Although, as I told the CPO and other people, I think there are flaws with the current process with the CPO. Because the CPO is not oriented and trained, like you are, to look at the larger issues, and they more often reflect how many people have shown up, and weigh that, with emotion, rather than weighing that with all of the other items that you have to look at. And it also is not just an information meeting. It becomes confrontation from the very beginning. It doesn't have the potential positive affect that you could have from being a facilitator in an information meeting, rather than appearing before another board and trying to make your case."

**GAROFALO** "Well, maybe there is some refinement that could be made with the CPOs, rather than throwing it out altogether."

**KROUT** "Yeah, that is possible."

**GAROFALO** "I was in agreement with your earlier proposal about these pre-meetings. I thought that was a good idea."

**WHEELER** "As I understand, what you are suggesting is that CPOs, as we know them, go away, and that the MAPC staff would assume that role of creating community involvement, education and information. So, the role that currently CPO performs would now be performed by the MAPD staff."

**KROUT** "Well, that is suggested in a big way, yes."

**WHEELER** "And so then, these District Advisory Boards, I have read a lot of this stuff here, but it is still unclear to me precisely what their role would be. One, I assume, is to serve the City Council for district to provide input to those Council members of what their

district is thinking, what particular neighborhoods in their district, what their struggles are, what they are after and what support they need from the City Council. So I guess I don't understand totally, our interaction with them, other than from a comprehensive planning role."

**KROUT** "I think that is right, and to the extent that we may be studying an individual neighborhood or corridor of the City."

**WHEELER** "They reference 'visioning meetings'. I don't know exactly what that means. But specifically, what are they after? They want to address zoning, they want to address Subdivision, so are they talking about combining the role of say, neighborhoods, the Neighborhood Initiative thing, with representation similar to CPO and wind that up in one little package?"

**KROUT** "I think that is part of the idea."

**WHEELER** "And then I guess coming back to the CPO, there was a break-down, evidently, and those were people were elected, but they are not accountable, is what I am hearing, for the way they conduct their meetings and their input. Is that part of the issue?"

**KROUT** "I think that is some of it."

**WHEELER** "So is that a staff issue, not being able to train them, or did they just become independent on their own?"

**KROUT** "Well, I think that has to do with the whole question of elected versus appointed officials. That is maybe why the City Council is, at least thinking of going towards appointed versus elected officials. When you are elected, I think you do assume that you are representing a constituency and maybe you can be more independent, because you are. You are not as accountable to the City Council because you are elected independently. So maybe some of this is a reaction to that."

**PLATT** "The first meeting of this body that I ever attended was a night meeting. They used to be at night. It occurred in what is now the Sedgwick County Historical Museum. As I recall, the agenda item I was interested in came up at about 11:00 o'clock at night. I guess I don't see anything wrong with night meetings, you could argue them both ways, but if people prefer that we meet at night, I think we ought to meet one night a month and one afternoon a month. I don't see anything wrong with that at all, and if it goes on until 1:00 a.m., and they used to do that, I guess the reason we shifted to afternoon meetings was that there were too many of them going on after midnight, and if they do, they will have to go on that way. So I think we ought to consider agreeing that we would meet once a month."

**KROUT** "The problem with once a month is that we have zoning meetings twice a month, which maybe isn't enough because.."

**PLATT** "Well, I would say that you would just run the regular agenda, and some would be at night and some in the afternoon, and then we could see. If people started to object that their case wasn't at night, then we could shift both of them to night. But I think we ought to try it."

It seems to me that the whole idea of these DAB's has not been clearly thought out. The idea of the CPOs was thought out. It was originally to be quite close to a neighborhood and we were going to have lots of them. They were to represent people because they were elected and would be ways to bring issues to us and to the City. Now we are going to have a very small number of appointed groups and what they are supposed to do, it seems to me, is pretty hard to envision.

I agree with Marvin that we should somehow have some pre-application meetings. That would save everybody a lot of time. It would bring neighborhoods together with the proposed developers and it would accomplish something. But if that is done outside of the DAB, it seems to me that that takes a lot away from the DAB's reason for existence. And by the same token, I am not sure that the DAB is a very good form for that because quite often the issue is so narrow that only a very small group of the people would be interested. So that doesn't work.

I think that whatever we do, I would pursue the idea that we need to do the pre-application-type meetings to try to bring people together to try to solve issues ahead of time. One way to use the DABs, in terms of this visioning thing, whatever that would be, would be that that would be our method for revising the Comprehensive Plan. We would really use them as the meeting places inside the city. We would have to have some outside the city, too, to constantly update the Plan.

Which brings me to the Advance Plans Committee, which I think that one of our biggest nemeses is that the Advance Plans Committee doesn't really function. I think when people agree to serve on the MAPC, they should agree up front that they will serve on a committee. On the MAPC that meets twice a month and on one of the subcommittees that meets twice a month. It seems to me that the Advance Plans Committee, for the last couple of years, hasn't done a thing. They have held some meetings after Subdivision on some Thursdays, and there have been more Subdivision Committee members attending than Advance Plans Committee members.

I think the Advance Plans Committee needs to be structured and get to work and, for example, an Advance Plans Committee member might attend every one of the DAB meetings. People could be assigned to them. That would be part of their job. I am confused by this statement in the proposal that we need to look for ways to streamline the meetings so that we can involve citizens more. It seems to me that if we streamline meetings, we cut down the opportunity to involve citizens. The reason meetings aren't streamlined is because we go on and on and on listening to people. That may be all right, but I would like to know what the people who put this together meant by 'streamlined'. I think they used a term they probably didn't think very much about.

I am a little inclined, I think, to agree with John McKay that no matter what we do, the MAPC should function with all members, and that perhaps we need to find a way to delegate some things to subcommittees that don't have to, very often then, come back to the full MAPC. I don't think subdivision items need to be a big problem for the total MAPC meeting. We got off on a bad tangent for a while there of wanting to debate every one of them instead of taking them as a group. I think unless there is a case where there really is some reason for discussion, that we ought to simply look at most of them and approve them. The one that John mentioned, I think is one that should have been brought to the whole Planning Commission. It was one of those things that was involved with some issues that are difficult. The fact that we are being sued supports that. Those kinds of subdivision items need to come to the full group, but most of them don't, and I think we go back to not spending the time on it that we can handle those within a 15 minute process every day. Anyway, that is my response."

**JOHNSON** "I can see that this is going to have to be continued for additional discussion. I will take one other comment."

**FRYE** "I would like to comment. I may not be here after this meeting, so I would like to make a comment. No. 1, I feel that the Commission needs to be intact, as a whole. No. 2, the District Advisory groups that they are proposing, I think, is a monstrosity. I don't think they know what they are doing. I think it needs to be looked into very, very carefully, and I would be adamantly opposed to the way it is set up now. They want more input from neighborhoods, and yet they are going away from that by this process."

If they wanted to do anything that was constructive, what they need to be doing is to be streamlining the CPO process. That needs to be looked at. But streamline that instead of trying to re-invent the wheel."

The last thing I would like to say to you is that I do think you need to have some night meetings. Whether it is once a month or every other month, I don't know. The reason I say that is because I do feel that there are people out there that only can come in the evenings and you need to have that opportunity. Now, if you have to structure the agenda, etc., that may be. I served 10 years on the school board, and we always met in the evening. That is a non-paying job. We met at 7:00. There were many, many, many times that I didn't go home until 1:00 or 1:30, but I made the commitment. I didn't have to. I made that commitment. Each and every one of you people that sit on this Commission, when you are asked to serve, you make a commitment. If you don't want to do that, let someone else do it. There is always someone waiting in the wings. I found that out very soon."

But at the same time, I just want to tell you that I think you can cut down on the length of your meetings if you will cut down on a lot of the dialog. Not the dialog from the public, but the dialog from this Commission. End of remarks."

Osborne-Howes arrived at the meeting at 1:40 p.m.

**MARNELL** "I have had just a short period of time on here, so I don't think I understand the civility issue. Has there been nasty meetings where there were food fights or something I missed?"

**FRYE** "No."

**MARNELL** "I don't quite understand that. 'Streamlining' would be nice. We don't really need to hear the same thing fifty times that doesn't even vary from the person ahead of them just said. If it is possible for the chair to control the podium when you have the same and there is no new input, to ask the person if they have new input it is different, if not we have heard that issue. I am sure that would cut the meetings I have been to so far in half. I will shut up now."

**JOHNSON** "We are going to defer this for some additional discussion at a later time."

-----  
**4. Consideration of Subdivision Committee recommendations.**

**JOHNSON** "Is there anyone here to speak on Items 4/1 or 4/2? Seeing none, I will bring it back to the Commission. We can take them together."

**MOTION:** That the Planning Commission recommend to the governing body that these requests be approved.

**MCKAY** moved, **GAROFALO** seconded the motion, and it carried unanimously (12-0).

**4/2. S/D 99-57** – One-step Final Plat of WICHITA RETIREMENT RESIDENCE ADDITION, located on the south side of 13<sup>th</sup> Street North, west of Maize Road.

- A. Municipal services appear to be available to serve this site. City Engineering needs to comment on the need for any guarantees or easements. No guarantees or easements are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. No guarantees are required.
- D. The plat proposes one access opening along 13<sup>th</sup> St. North. The plat's text shall specify that the location of the opening is subject to approval by the City Engineer.

- E. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- F. The applicant is reminded that a 15-ft landscape buffer is required along the west and south property lines in accordance with the PUD approval.
- G. On the final plat tracing, a note shall be placed on the face of the plat indicating that this Addition is subject to the conditions of PUD#10.
- H. A PUD Certificate shall be submitted prior to City Council consideration, identifying the approved PUD (referenced as PUD #10) and its special conditions for development on this property.
- I. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell requests additional easements.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.

-----

- 4/2. D-1767** -- Dedication of a Drainage and Utility Easement for property generally located on the west side of Webb Road, and south of 29<sup>th</sup> Street North.

OWNER/APPLICANT: Via Christi Property Services, Inc., C/O David M. Mohr, 959 N. Emporia, Wichita, KS 67214-3722

LEGAL DESCRIPTION: Lot 4, Block 1, Kansas Surgery and Recovery Center Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split (L/S-1010) and is being dedicated for construction and maintenance of public utilities and drainage systems.

Planning Staff recommends the granting of this dedication be accepted.

-----

**BILL JOHNSON**, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

-----  
**JOHNSON** "These are vacation cases and will be public hearing items. Item No. 4/5 will be taken separately. Is there anyone here to speak on Item Nos. 4/3, 4/4 or 4/6?"

**GAROFALO** "I have a question on Item No. 4/4, V-2191. Is there an exact number of feet to be vacated on this setback?"

**VERTS** "They are coming back 10 feet of the 25 foot platted setback."

**MOTION:** That items 4/3, 4/4 and 4/6 be approved.

**WHEELER** moved, **PLATT** seconded the motion, and it carried unanimously (12-0).

**4/3. V-2189** – Request to vacate Casado Circle right-of-way, described as:

Casado Circle, located west of Meridian in Section 1, T28S, R1W, generally located at Meridian and Casado (2705 S. Meridian).

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time August 3, 1999, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described drainage easement, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of the Casado Circle right-of-way described in the petition should be approved, subject to the following conditions:

1. Access to Casado Circle will remain a shared access point for the two adjacent properties.
2. The driveway cutout will be reduced to a standard 24-foot access driveway.
3. The city shall retain a 20-foot utility easement along the southern boundary of the existing Casado Circle right-of-way commencing at the west boundary of Meridian and extending west for 100 feet.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval, subject to the following conditions:

1. Access to Casado Circle will remain a shared access point for the two adjacent properties.
2. The driveway cutout will be reduced to a standard 24-foot access driveway
3. The city shall retain a 20-foot utility easement along the southern boundary of the existing Casado Circle right-of-way commencing at the west boundary of Meridian and extending west for 100 feet.



-----  
**4/4. V-2191** – Robert and Christina Edgington request the vacation of a portion of the front building setback, described as:

Commencing at the SE corner of Lot 5, Block 1, Rainbow Lakes West Fourth Addition, Sedgwick County, Kansas; thence northeasterly along the lot line common to said Lot 5 and Lot 6 in said Block 1, 25.00 feet to the intersection with the 25 foot building setback line as platted in said Lot 5 for a point of beginning; thence northwesterly, westerly, and southwesterly along said building setback line, 94.80 feet, more or less, to a deflection point in said building setback line; thence easterly parallel with the south line of said Lot 5, 15.87 feet, more or less, to a point 10.00 feet normally distant southeasterly from said building setback line; thence northeasterly, easterly, and southeasterly parallel with said building setback line, 70.68 feet, more or less, to a point on the lot line common to said Lots 5 and 6; thence northeasterly along said common lot line 10.00 feet to the point of beginning, excluding the utility easement, generally located on the northeast corner of Forestview and Forestview court, generally south of Central and east of 135<sup>th</sup> Street West (526 Forestview).

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time August 3, 1999, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described drainage easement, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

C. Therefore, the vacation of a portion of the 25-foot platted building setback described in the petition should be approved.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval.

-----

**4/6. V-2193** – Robert D. Wood requests the vacation of a poriton of the 20-foot utility easement described as:

Commencing at the NW corner of Lot 1, Powell's 9<sup>th</sup> Addition, Wichita, Sedgwick County, Kan; thence south, along the west line of said Lot 1, 10 feet for a place of beginning; thence east, parallel with the north line of said Lot 1, 110 feet; thence south, 10 feet; thence west, parallel with the north line of said Lot 1, 110 feet to the west line of said Lot 1; thence north, along the west line of said Lot 1, 10 feet to the place of beginning. Generally located on the northeast corner of Douglas and Kessler Street.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time August 3, 199, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described utility easement, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the utility easement described in the petition should be approved, subject to the following condition:

- A. The applicant shall dedicate a utility easement which covers the existing man hole on Lot 1.

SUBDIVISION COMMITTEE RECOMMENDED APPROVAL OF THE REQUEST, SUBJECT TO THE FOLLOWING CONDITION:

- A. The applicant shall dedicate a utility easement which covers the existing man hole on Lot 1.
- 

Item taken out of order:

**WHEELER** "For the record, I will need to abstain from this case. The customer is a client of mine."

- 4/5. **V-2192** – RCK Construction, Inc., c/o Randall E. Ketzner, President, requests the vacation of a portion of the 20-foot drainage and pedestrian access easement, described as:

That part of a 20 foot drainage and pedestrian access easement in The Havens, an Addition to Wichita, Sedgwick County, Kansas, described as follows: Commencing at the front corner common to Lots 18 and 19 in said the Havens; thence N 46° 29'54"W along the front line of said Lot 19, 10.00 feet to the most northerly corner of said easement; thence S 43° 30'06"W along the northwest line of said easement, 37.62 feet for a point of beginning; thence continuing S 43° 30'06"W along the northwest line of said easement, 37.00 feet; thence S 46° 05'31"E 4.57 feet; thence N 43° 54'29"E, 4.50 feet; thence S 46° 05'31"E, 3.80 feet; thence N 43° 54'29"E, 22.50 feet; thence N 46° 05'31"W, 4.84 feet to the point of beginning. Generally located South of Central and east of Cedar Downs Circle.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time August 3, 1999, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described drainage and pedestrian access easement, and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- D. Therefore, the vacation of a portion of the drainage and pedestrian access easement described in the petition should be approved, subject to the following condition:
- A. The applicant shall file a hold harmless agreement for the encroachment of the bay window and dedicate four feet of drainage and access easement on the south side of the existing easement.

**SUBDIVISION COMMITTEE RECOMMENDED APPROVAL OF THE REQUEST, SUBJECT TO THE FOLLOWING CONDITION:**

- A. The applicant shall file a hold harmless agreement for the encroachment of the bay window and dedicate four feet of drainage and access easement on the south side of the existing easement.

**GOOCH** "This item was approved last week by the Subdivision Committee. The legal description is part of your packet; however, between then and now, the applicant did determine, after going out to the site, that he actually had an incorrect legal description and an incorrect site plan. Therefore, we handed out a revised site plan and a revised legal description.

Staff is still recommending approval of the request, however, staff is saying that there no longer needs to be a 'hold harmless' agreement, but the applicant shall file a 2-1/2 foot drainage and access easement on the south side of the existing easement instead of the four foot requirement. They are actually only needing to vacate 2-1/2 feet of this drainage and access easement, and therefore they will dedicate the same amount on the other side of the easement. Public Works is okay with that. I will answer any questions."

**MARNELL** "I have one quick question. This is Lot 19, and I assume that Lot 18 is owned by the same party?"

**GOOCH** "Yes. Both homes are under construction. There is one being constructed on Lots 18 and 19 right now."

**JOHNSON** "Are there any other questions of staff? Thank you, Keith. Is there anyone here to speak on this item?"

**PHIL MEYER** "I am with the Baughman Company, and am the agent for the applicant. I will answer any questions that the Commission may have."

**JOHNSON** "Are there any questions of the applicant? Okay. Is there anyone else to speak on this item? Okay, I will bring it back to the Commission. What is the pleasure of the Commission?"

**MOTION:** That the Planning Commission recommend to the governing body that the request be approved.

**FRYE** moved, **GAROFALO** seconded the motion, and it carried unanimously (11-0-1)  
Wheeler abstained.

**ZONING:**

**BILL JOHNSON**, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

- 
5. **Case No. CU-531** – James Roberts (Owner) requests Conditional Use permit to allow a private landing strip on property described as:

The South 20 acres of the North 40 acres of the North Half of the Southwest Quarter of Section 14, Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located ½ miles south of 109<sup>th</sup> Street North on the east side of 151<sup>st</sup> Street West.

**KEITH GOOCH**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting the renewal of a Conditional Use permit for a 2,000 foot turf landing strip for private aircraft on a 20 acre tract south of Bentley. In addition to the runway, a single family home and a shed are currently located on the property. The applicant has stated he operates a single engine airplane from this airstrip. A private landing strip is defined as a strip for the use by the property owner and those specifically authorized by the owner to use the facility.

This request was approved by the Bentley Planning Commission and the Sedgwick County Commission in 1994, subject to several conditions and a five-year time limit. Therefore, the applicant is required to reapply for a Conditional Use.

All surrounding property is zoned "RR" Rural Residential. Property to the east and west of the proposed runway is undeveloped, agricultural ground. Eight single-family homes exist to the north and south of the runway. The closest home is north of the application area, approximately 500 feet from the end of the runway.

**CASE HISTORY:** Stated in background section.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR"	Single family home
SOUTH: "RR"	Single family home
EAST:	"RR" Undeveloped agriculture land
WEST: "RR"	Undeveloped agriculture land

**PUBLIC SERVICES:** This site has access to 151<sup>st</sup> Street West, a two-lane County highway with traffic volumes of 2,181. The 2030 Transportation Plan estimates these volumes will increase to 4,689. There are no improvements identified for this stretch of roadway in the Sedgwick County Capital Improvement Program.

**CONFORMANCE TO PLANS/POLICIES:** The adopted Land Use Guide of the Comprehensive Plan identifies the application area as appropriate for agricultural use. The locational guidelines of the Comprehensive Plan recommend that airports be sited away from large water bodies, landfills and concentrations of people.

**RECOMMENDATION:** Planning staff did recommend denial of this case, when the original request was filed. However, Planning staff and Sedgwick County Code Enforcement have not received any complaints from the surrounding property owners. Therefore, based upon the information available prior to the MAPC, planning staff recommends this request be approved, subject to the following conditions:

1. Development of the private airport shall be limited to the construction of the landing strip and accessory structures. All

structures shall meet the height limitations and setback requirements of the Zoning Code. The aircraft hangers or associated building shall be used only for the storage, servicing and maintenance of non-commercial aircraft or the equipment necessary for the maintenance of non-commercial aircraft or the equipment necessary for the maintenance of the aircraft landing field. Airport buildings may also be used for any use that is permitted outright by the provisions of the "RR" Rural Residential district.

2. The site shall be developed in general conformance with the approved site plan.
3. The airport shall be utilized by noncommercial aircraft only.
4. The uses permitted shall be only those associated with the normal operation of the private airport. Nothing in the approval of this request shall be construed to permit the sales of products or services.
5. The operation of the private airport shall comply with the advisory determination of the Federal Aviation Administration.
6. Should weather conditions prevent the safe and efficient use of airspace by aircraft with respect to the safety of persons and property on the ground given the take off and landing restrictions, all such take offs shall be prohibited and landings shall be directed to another airport facility.
7. Any violation of the foregoing conditions shall render this Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are single family homes on property zoned "RR" located to the north and south of this property. To the east and west is undeveloped agriculture land, zoned "RR."
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The airstrip was originally approved five years ago. During this time, staff has not received any complaints about the airstrip, and therefore, it does not seem that allowing this use to continue will detrimentally affect the nearby properties.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: Airstrips are generally considered compatible with areas in agricultural use and zoned "RR" Rural Residential. The locational guidelines recommend not having airports located near large water bodies, large concentrations of population, or landfills. There are no water bodies or landfills in the immediate vicinity. The applicant will be required to take off and land away from the surrounding single family homes.
4. Impact of the proposed development on community facilities: The proposed use should not generate any significant traffic affecting the road network. Public sewer and water service are not available.

**GOOCH** "This request met quite a bit of opposition in 1994. Staff did mail out the required notices and have not had any comments on this request. I did go to the Bentley Planning Commission meeting on Monday night and they approved this request unanimously. Are there any questions of staff?"

**OSBORNE-HOWES** "Just a quick question. We don't perceive that in the next 5 to 10 years there will be any new development here?"

**GOOCH** "There possibly could. There is sewer and water available, as I understand, from Bentley, which is actually contrary to what the staff report says. There could be development, but I don't know if we see any to the east of this area."

**OSBORNE-HOWES** "To the east is where I was wondering. Are they requesting another 5 years, or is that what we are trying to determine this time?"

**GOOCH** "Staff is recommending forever, but you could still put another 5 year time limit on there. I know that he requested that there would not be a time limit on it at Bentley."

**OSBORNE-HOWES** "But he would have to go through paying and through all of this again in five years?"

**GOOCH** "For the renewal of a Conditional Use it is half price."

**FRYE** "I have a comment. I think it is awfully big of staff to remind us that they were not in favor of this five years ago, and now they are in favor. I do think that is very big of them, and I appreciate it."

**JOHNSON** "Are there any other questions of staff? Thank you, Keith. Applicant or agent.."

**JAMES ROBERTS** "I live at 10508 North 151<sup>st</sup> Street. I am the applicant. I am just as nervous now as I was 5 years ago. During that meeting 5 years ago, I suggested that the board look at it in 5 years to see if it was being utilized properly and within the guidelines. I have done that. Some of the stirrers that I had 5 years ago was some personal conflicts that I had with my neighbor to the north, and he had his house for sale and moved while I was doing this and I haven't had any problems from any of the other neighbors. If anyone has any questions?"

**GAROFALO** "Sir, are you the only one that uses this?"

**ROBERTS** "Yes, I am."

**GAROFALO** "And you have one plane?"

**ROBERTS** "Yeah."

**JOHNSON** "Are there any other questions of the applicant? Thank you. Is there anyone else who would like to speak in favor of this application? Is there anyone here to speak in opposition? Seeing none, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: There are single family homes on property zoned "RR" located to the north and south of this property. To the east and west is undeveloped agriculture land, zoned "RR." Extent to which removal of the restrictions will detrimentally affect nearby property: The airstrip was originally approved five years ago. During this time, staff has not received any complaints about the airstrip, and therefore, it does not seem that allowing this use to continue will detrimentally affect the nearby properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan: Airstrips are generally considered compatible with areas in agricultural use and zoned "RR" Rural Residential. The locational guidelines recommend not having airports located near large water bodies, large concentrations of population, or landfills. There are no water bodies or landfills in the immediate vicinity. The applicant will be required to take off and land away from the surrounding single family homes. Impact of the proposed development on community facilities: The proposed use should not generate any significant traffic affecting the road network. Public sewer and water service are not available.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. Development of the private airport shall be limited to the construction of the landing strip and accessory structures. All structures shall meet the height limitations and setback requirements of the Zoning Code. The aircraft hangers or associated building shall be used only for the storage, servicing and maintenance of non-commercial aircraft or the equipment necessary for the maintenance of non-commercial aircraft or the equipment necessary for the maintenance of the aircraft landing field. Airport buildings may also be used for any use that is permitted outright by the provisions of the "RR" Rural Residential district.
2. The site shall be developed in general conformance with the approved site plan.
3. The airport shall be utilized by noncommercial aircraft only.
4. The uses permitted shall be only those associated with the normal operation of the private airport. Nothing in the approval of this request shall be construed to permit the sales of products or services.
5. The operation of the private airport shall comply with the advisory determination of the Federal Aviation Administration.
6. Should weather conditions prevent the safe and efficient use of airspace by aircraft with respect to the safety of persons and property on the ground given the take off and landing restrictions, all such take offs shall be prohibited and landings shall be directed to another airport facility.
7. Any violation of the foregoing conditions shall render this Conditional Use permit null and void.

**WHEELER** moved, **FRYE** seconded the motion, and it carried unanimously (12-0).

- 
6. **SCZ-0791** – Sherman Donaldson (Owner); Terra Tech c/o Michele Goodrich (Agent), request zone change from "SF-20" Single-Family to "MH" Manufactured Housing on property described as:

The West 150 feet of the South 750 feet of a tract of land beginning 1998.2 feet East of the southwest corner of the southwest Quarter of section 12, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence East 649 feet; thence North 2651.2 feet; thence West 658.8 feet; thence South to Beginning, EXCEPT the East 165 feet of the South 1326 feet of the Southwest Quarter, Section 12, Township 28 South, Range 1 West, AND EXCEPT that part condemned in District Court Case A-76777 for I-235 Highway, generally located north of MacArthur and ½ miles east of West Street.

**KEITH GOOCH**, Planning Staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant is requesting to rezone a 2.6 acre unplatted tract of land from "SF-20" to "MH" located north of MacArthur and ½ mile east of West Street. There are currently two doublewide manufactured homes on this property. One home is a legal nonconforming

use and is permitted to stay. The other manufactured home was approved in 1995 on a temporary basis to provide care for the applicant's wife. The applicant did receive a permit from the Sedgwick County Code Enforcement to enlarge the temporary structure. The home was to have been removed after his wife no longer lived on-site, so the permit was issued in error. The applicant's children now use this home. Sedgwick County Code Enforcement realized the error and proceeded to take court action against the applicant. The applicant has been ordered by the court, to either move the temporary home approved in 1995 or meet the code requirements. The Unified Zoning Code (UZC) requires manufactured homes, unless they meet the standards of a "Residential Design Manufactured Home (a manufactured home on a permanent foundation which has minimum dimensions of 22 body feet in width a pitched roof, and siding and roofing materials which are customarily used on site-built homes, and which complies with architectural and aesthetic standards specified in Sec. IV-D of the UZC), to be placed on lots zoned "MH" Manufactured Housing or on lots larger than 20 acres in size.

The UZC requires all manufactured homes to be placed on a permanent enclosed perimeter foundation, or be skirted around the perimeter of the home, within 45 days of the placement of the home, by solid concrete or masonry walls or a material designed to be used as mobile home skirting that does not have a flame spread rating in excess of 25. The manufactured home shall also be provided with handrails on all outside stairs that have a rise of more than 30 inches from grade to finished floor elevation and shall have any stairs, porches and handrails constructed so as to be structurally sound. The manufactured home in question does not currently conform to all of these requirements.

This site could possibly serve approximately 20 manufactured homes based upon the density permitted in the "MH" district for a "park" that is if served by public water and sewer. Staff is recommending if the request is approved, that the property be limited to one manufactured home on each of two lots.

At the time of platting, the City of Wichita Fire Department will require that all structures be within 600 feet of the entrance to Lot 2, the driveway be constructed as a 20 foot wide gravel roadway with a turnaround at the north terminus, and the construction of a fire hydrant along MacArthur, once municipal water is available. The Health Department has stated that, if the zoning request is approved, both lots would be permitted a septic system.

There are site-built single-family homes located to the east, south and west on property zoned "SF-20." A church exists to the north of the application area zoned "SF-6."

**CASE HISTORY:** Stated in the background section.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-6" Church  
SOUTH: "SF-20" Single-family homes  
EAST: "SF-20" Single-family homes  
WEST: "SF-20" Single-family homes

**PUBLIC SERVICES:** This site has access to MacArthur Road, a two-lane arterial with current traffic volumes of 6,460. The 2020 Transportation Plan estimates these volumes will increase to 8,667. There are no improvements for this stretch of roadway listed in the City of Wichita or Sedgwick County Capital Improvement Program.

Municipal sewer is located east of this property approximately 500 feet. Municipal water is not available to serve this site currently.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide identifies this area as appropriate for low density residential uses. This category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches, and similar uses found in such areas. The Comprehensive Plan calls for mobile home parks to be located on larger tracts and buffered by physical barriers from traditional single-family neighborhoods.

**RECOMMENDATION:** Planning staff has a policy of not supporting new "MH" Manufactured Housing zoning except for areas where similar uses or zoning are already established. The surrounding residential units are characterized by site-built single-family homes on property zoned "SF-20." Therefore, Planning staff recommends the request be DENIED.

However, if the Planning Commission feels the request is appropriate, then Planning staff recommends that a Protective Overlay be placed on this request, stating that the property shall be platted, within one year, into two separate lots, and be limited to one manufactured home or site-built home per lot.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** There are single-family homes located to the east, west and south on property zoned "SF-20." Most if not all the homes are site built homes. A church is built on the property to the north, zoned "SF-6."
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is currently zoned "SF-20" and could be developed with a use permitted "by-right" in this district. The applicant has not explained to staff why a site built home could not be constructed at this location.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: If this property is rezoned, it could possibly set the precedent to permit other Manufactured Housing zoning in the area. There is a perception that non-residential designed manufactured home detrimentally affect property values of nearby site-built homes.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is shown to be appropriate for low-density residential uses, which this request does comply with. However, the residential locational guidelines recommend, "mobile home parks should be located on larger tracts, buffered by physical barriers (e.g. freeways, drainage ways, other land uses) from traditional single-family neighborhoods." Therefore, this manufactured home which would generally be found in either a mobile home park or subdivision should be buffered from other traditional single-family neighborhoods. This request does not conform to the locational guidelines for manufactured homes.
5. Impact of the proposed development on community facilities: This development should not generate significant traffic nor should it impact other community facilities.

**GOOCH** "Are there questions of staff?"

**GAROFALO** "If I read this correctly, the 1995 agreement was violated then?"

**GOOCH** "Yes."

**WARREN** "Does the applicant own Lots 1 and 2?"

**GOOCH** "Yes, he owns both lots."

**WARREN** "Are you saying that he could move it to Lot 2 without any zoning?"

**GOOCH** "No. I am not saying that. He would have to move it to Lot 2 if this request was approved for 'MH' zoning."

**WARREN** "I see."

**MICHAELIS** "You referred to the County issuing a permit for a change on the site. Do you know what that change was?"

**GOOCH** "It was just to enlarge the manufactured home. After further review, the Code Enforcement determined that it was issued in error. It shouldn't have been issued. Actually, the manufactured home should have been removed from the site. The court has required that the applicant either remove the mobile home or come up to Code."

**MICHAELIS** "Do I understand right that the usage was granted for a specific use to take care of the Mother? And that that use no longer exists?"

**GOOCH** "That is correct. Even today there are Conditional Use requests that allow a temporary manufactured home be located on the site for a kind of 'caretaker' basis as long as the individual that is requiring the care lives on site. Once that person no longer lives on site, the temporary manufactured home is required to be removed from the property, within 30 days, I think."

**WARREN** "Is there any screening or natural barriers, or anything on the side lots that would isolate this?"

**GOOCH** "That is looking to the west. I think the east would be even worse. There are a few trees, but not many."

**JOHNSON** "Are there any other questions of staff? Thank you, Keith. Applicant or agent."

**MICHELE GOODRICH** "I am with Terre Tech Land Surveying, here for the applicant. The second permit that was issued in March, 1997 was about a month after the single-wide mobile home had been removed, after the wife had passed away. The County came out and inspected it and made sure that it was gone, and that put them in compliance with that Conditional Use permit."

After a month had passed, his daughter wanted to live there, got a double-wide mobile home, wanted to hook it to the same hook-ups, went back to the County. They issued them a building permit to do so, and then decided that they shouldn't have done that after they had issued it. So it is not like they didn't live up to the first permit or that they were trying to get something by on the second one. They have agreed to bring it into compliance. We are platting it into two lots to do so because both of the houses right now are tied into the same septic system. Each one has its own septic tank, but it is tied into a common lateral line and we can't plat boundary lines around one 40,000 square foot piece without going through the mobile home. So one of the homes will have to move.

If the second home didn't have to move, I doubt that we would need to rezone. It's when you get the permit to move the house, the zoning comes into play. When they got the permit in 1997, the manufactured housing zoning didn't exist, so this wasn't something that if they would have platted it into two lots in 1997 that we would have a problem with right now.

I feel like we are getting tripped up a lot. I spoke with Glen Wiltse, Director of County Code Enforcement before we even started the platting and zoning application on this because I did know that there was a court injunction and I wanted to know what all of that had to do with this. He said that basically he doesn't tell you what to do, he just enforces what subdivision says you have to do. He

didn't tell me one way or the other that we had to re-zone it. But he said that if that is what we have to do, that is what we have to do.

Personally, I think it is wrong to rezone this to 'MH'. I think if you leave it as 'SF-20' and treat the second home as a non-conforming structure and move it onto Lot 2 and put it in with its own system and bring it up to everything, setback, easement, all of that, the only thing that is not going to conform is the zoning. If a tornado came through and knocked this home away, if they didn't replace that home within a year, they couldn't replace the home because it would be 'SF-20' and no grandfathering would exist. If you change it to 'MH' and the same situation happens, you could come back with a singlewide forever. So I don't think it was appropriate to tell us to rezone to 'MH'. That is what we were told to do. I have had several conversations with Marvin and Keith on this and I told them my concerns that 'MH' lets you do a lot that we don't really want to do. If you don't put an overlay on it, you can put up to 20 mobile homes on a piece this size, which we really don't want to do. We just want two homes on two lots without going through foundations or expense. They probably wouldn't have even gone this far if they knew that was going to be a requirement. I feel like we have been into a no-win situation and it concerns me."

**JOHNSON** "Are there any questions?"

**WARREN** "It would seem quite apparent that back in 1994 when this original request to allow the Mother's unit to go in there, I take it, that there was a full knowledge then that they were improperly zoned and would need a Conditional Use permit."

**GOODRICH** "The problem was because if you create a multi-family situation, you have one lot with two dwellings on it, which makes it more than single-family residential."

**WARREN** "My questions is though, wouldn't you assume that they knew that they were in non-compliance with zoning in 1995?"

**GOODRICH** "Yes, and if they wanted to continue that use, all they would have to do was to bring it up to compliance, which they thought meant platting and putting in a new septic system for the individual second home."

**WARREN** "You don't think that they thought at that time that they were in non-compliance and would probably have to move that?"

**GOODRICH** "I think the whole thing comes down to that it is because it is a mobile home and because it is going to have to be moved a little bit on site. If you leave it as a 'grandfathered' situation, since it was there before the Manufactured Housing zoning took effect, leave it as 'SF-20', if we could get permitted to do that, I would be just tickled. I don't think we would want the 'MH' zoning, but it seems like the 'MH' zoning is the only thing that we are going to be allowed to do, so I guess I would urge you to approve the 'MH' zoning with the Protective Overlay that would say that this would only be for two manufactured homes and that if either one of them were removed, they would have to be replaced with stick built homes or comparable."

**JOHNSON** "Are there any other questions of the agent? Thank you. Is there anyone else here to speak in favor of this?"

**JERROD VICKERS** "I am not sure if I am in favor. I am here representing the West Side Free Will Baptist Church. We own the property to the east and to the north. We are not opposed to having the second mobile home. What we would be opposed to is the mobile home rezoning that might allow, as we understand it, up to 20 mobile homes. We would be opposed to that. If you were to approve them, we would like to have some assurances that that wouldn't happen. They say that they are not going to have that, but we would like to have some kind of writing that would say that that it would be restricted to just the two mobile homes and just to the two lots. We are not opposed to it, but we do want assurances that it is not going to turn into a mobile home park."

**JOHNSON** "Are there any questions? Thank you. Is there anyone else to speak in favor of this?"

**TOM TALBERT** "It is my father-in-law who is the applicant here."

**JOHNSON** "Okay. Do you understand that you had 10 minutes altogether. I don't know how much time was left of that."

**GOOCH** "Seven minutes."

**JOHNSON** "Okay. Go ahead."

**TALBERT** "Okay. I live in the second mobile home that was put in. I just have a couple of comments in relation to the staff report. In regards to the recommendations, most of all, on No. 1 it says 'the zoning uses and character of the neighborhood'. We counted up the number of homes in the area coming from West Street down to the east of us, and there were approximately 21 homes along there. There is doublewide and single-wide manufactured homes in the number of 6, not counting our second one, which is about 28 % of the neighborhood in that area. So we kind of felt it was not terribly non-characteristic of the neighborhood."

With regards to No. 3, as to how it will detrimentally affect the neighborhood. We had gone to other than the church, which we couldn't find somebody there at all times to go and ask, but we did go and talk to all of our neighbors. We have several letters here that we let each one sign. We had no one sign it negatively. We put the opportunity for them to sign positively or negatively on the letter of petition. I think we have 18 letters in favor of us leaving our house there as it was, even at this point, out of the 21. I don't have the exact count. So the neighborhood doesn't seem to be against our situation there either."

Then on No. 4, we would be more than willing to accept a Protective Overlay, or as Michele was saying, to leave it as 'SF-20' so that we could lose the opportunity to have a mobile home there if something happened in a year that it wasn't replaced. It is not our desire to make anything other than our one residence there. Along with that, to the north of us, the church's property is there, and



behind the church there is also Highway I-235 along there, which is pretty much a barrier, as you might say, to the neighborhood on the north side, and then to the south of us there is MacArthur Road, which is a fairly busy arterial road through there. So there is somewhat of a barrier there. The church is on the other side. The person to the west of us owns approximately 11 acres and I think the person to the west of him owns several acres also. So it is not, per se, a small residential neighborhood where each lot is small that we would be crowding in on a neighborhood.

Also in addressing not having a skirting on there and not conforming to the mobile home rules on that, we were not allowed to put skirting on there as a result of our inspection not being passed because they pulled back the permit. So it hasn't been our wish to leave it as it is, we have just not been allowed to put the skirting on. We would like to comply with those things as much as possible, but we have been somewhat hindered in those attempts. Does anyone have any questions that I can address further?"

**WHEELER** "What is your opposition, actually, if you are going to have to move it anyway, what is your opposition to putting it on a secured foundation or slab."

**TALBERT** "Mostly it is just cost prohibitive. When we made the initial effort for Sherman's wife before she passed away, my wife was nursing her and we put in over \$5,000 of expense to put in the septic system that we already have. We put in our own tank and added to his lateral lines and things like that. The utilities we ran back already, and we are now talking whatever it takes to move the home and that will probably be between \$5,000 and \$8,000 again. A foundation would add a few more thousand, or a couple more thousand, at least."

**WHEELER** "But the structure itself would meet Code if it were put on a foundation?"

**TALBERT** "Yes, ma'am."

**JOHNSON** "Thank you. Are there other questions? Is there anyone else here to speak in favor of this item? In opposition to this item? Seeing none, I will bring it back to the Commission."

**GAROFALO** "I would just ask the obvious question of staff. Could this be done without a zoning change?"

**KROUT** "Well, the applicant just said that he thought that he could put this on a permanent foundation and if that was the case, it would meet the standards for a residential design manufactured home, but the information that we have from Glen Wiltse through Keith is that we can't tell you for sure that that is the case. If it was the case, then he wouldn't need the zoning change."

**MCKAY** "I would like to have Michele come back up to the podium."

**GOODRICH** "There are two doublewides on there. The first one is not on a foundation either, but it is grandfathered. I am saying why shouldn't this one be grandfathered if it was in place before the zoning resolution took effect? It was done with a valid permit. They have a permit. It is not like they moved it in without a permit."

**KROUT** "It was a Conditional Use permit for a very specific temporary purpose. That has run out, so what is out there now is illegal and not grandfathered."

**HENTZEN** "I think I am going to talk about the thing that Frank is thinking, and that is why change the zoning? The fact is, I went out there the other day and drove along 47<sup>th</sup> Street, and I want to tell you that some people have put in some really nice houses along there. I would not like the idea of doing anything on zoning that would allow you to put 20 mobile homes on this property."

Now, in regard to the people that applied to the County and they issued the permit for them to bring the second mobile home in, they complied with that. They removed it. But then they applied again to allow the second home. That permit was issued and then it was rescinded, as I understand it."

**KROUT** "That is what the applicant says, but it isn't what the County Code Enforcement told us."

**HENTZEN** "Well, let's just resolve that, let's find out."

**KROUT** "My suggestion may be to defer this for two weeks and have County Code tell us."

**HENTZEN** "What I am saying is that I hesitate to change the zoning on that entire place there."

**WARREN** "I agree with what Commissioner Hentzen has just stated. I also have a couple of problems. Since I have been on this Commission, we have granted a couple of cases similar to the original 1995 request, which was kind of a hardship for a family, and we have allowed a Conditional Uses to satisfy those hardships. I guess I hate to see a situation whereby we decide that we had better not do that because it is going to become permanent. That is a little bit of what is happening here. I am opposed to rezoning it, but I would like to ask Marvin to dig down deep in his knowledge of our regulations and see if there isn't a special use or a Conditional Use that we could grant to allow this thing to stay like it is rather than to go through rezoning. If the Commission decides that, I would just like to see it go on a Conditional Use."

**KROUT** "Well, we used to have a Conditional Use, in fact, I think that prior to 1997 I don't think this would have been allowed, even then, by right on a one-acre lot. It would have required a Conditional Use. We had that at the time and the County Commission decided that mobile homes were generally something that they wanted to be very

careful about where they were putting them in the future in the County, and so instead of making it easier by having a Conditional Use process, they actually made it harder by saying that this should require rezoning, and we should look at rezoning. We don't want to create spots of zoning for mobile homes throughout the County, so we have only supported these in areas where a subdivision was already filled out largely with mobile homes and we have had a couple of those cases over the past couple of years.

No, I don't think there is another process. You can use the Protective Overlay in order to guarantee that someday if water and sewer were made available to the site that they can't create 20 units. A Protective Overlay will only assure that there will only be two units on there, but it does require, and I think the County Commission's intention was not to make it any easier to permit putting these on permanent foundations on residential lots."

**WARREN** "So what I am hearing, I think, is that there is no other vehicle to allow this beyond rezoning and a Protective Overlay. That is our only choice."

**KROUT** "Right."

**FRYE** "I still think there is an issue here that hasn't been resolved, and that is the issue between what the applicant is saying and what Code Enforcement is saying. There is a dispute here."

**KROUT** "There is. And if you feel that you want the answer to the question of how this got moved in or out, we can defer this. I am saying that that really shouldn't affect how you look at this case. This is a zoning and land use issue, and how this happened, I don't know. We had a case, if you remember, where a car wash permit was issued in error, and yet we asked you not to make that a determination about whether or not it was proper zoning."

**MICHAELIS** "Mr. Chair, if they would move this to the other lot and put it on a foundation, then everything would be okay the way it is zoned now. Is that correct?"

**KROUT** "The only thing, and that is the other reason I suggested you may want a deferral, is because we are not sure that this unit will qualify as a residential design home. I am not sure why, it may be that County Code Enforcement just doesn't have enough information. It has to be 22 feet wide and it has to have been built since 1976. I don't know what other requirements Glen Wiltse thinks we may have on this."

**MOTION:** That the item be deferred for 2 weeks until more information has been gotten from County Code Enforcement.

**MICHAELIS** moved **WARREN** seconded the motion, and it carried unanimously (13-0).

7. **Case No. SCZ-0792** – Charles A. Edwardson (Owner); P.E.C. c/o Gary Wiley (agent) request a zone change from "SF-20" single-family residential to "GO" General Office and "LI" Limited Industrial on property described as:

"SF-20" to "LI"

A tract of land in the NE ¼, Section 23, T28S, R1W of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, described as follows:

Beginning 745.16 feet South of the Northwest corner of said NE ¼; thence South along the West line of said NE ¼, 596.79 feet; thence East 905.82 feet to the West line of the Big Ditch Cowskin Floodway; thence Northwesterly along the West line of the Big Ditch Cowskin Floodway to the South line of the Missouri Pacific Railroad right-of-way; thence Southwest along said South line 585.14 feet to the Point of Beginning; except the South 400 feet thereof; and except beginning at a point on the South line of the Missouri Pacific Railroad right-of-way and the West line of the Big Ditch Cowskin floodway; thence Southeasterly along the West line of the Big Ditch Cowskin Floodway 260.0 feet; thence Southwest at 90°, 125.0 feet; thence Northwest at 90°, 190 feet ± to the South line of the Missouri Pacific Railroad; thence Northeast along the South line of the Missouri Pacific Railroad right-of-way to the point of beginning.

"SF-20" to "GO"

A tract of land in the NE1/4, Sec 23, T28S, R1W of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, described as follows:

Beginning at a point on the South line of the Missouri Pacific Railroad right-of-way and the West line of the Big Ditch Cowskin Floodway; thence Southeasterly along the West line of the Big Ditch Cowskin Floodway 260.0 feet; thence Southwest at 90° 125.0 feet; thence Northwest at 90°, 190 feet ± to the South line of the Missouri Pacific Railroad; thence Northeast along the South line of the Missouri Pacific Railroad right-of-way to the Point of Beginning. Generally located ½ mile east of Hoover on the south side of 47<sup>th</sup> Street South.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a zone change from "SF-20" Single Family to "GO" General Office for the northern corner of the property and "LI" Limited Industrial for the remaining portion. The property is currently being used as farmland. The applicant intends to use the northern portion of the property for an office and residence, and the remainder of the site for a maintenance and storage yard for his tree service business, Alfred's Superior Tree Service, Inc. The primary activities of the business are tree trimming and spraying, with some cutting, storing, and sale of wood as an ancillary activity. Currently, the business has a total of seven employees. The applicant intends to use a septic system for the office/home use since the amount of sewage generated is expected to be comparable to a "domestic" source.

The application area is an isolated tract, located on a six-acre triangular site that is bounded on the northeast by the Wichita-Valley Center Flood Control Project, also known as the "Big Ditch", and on the northwest by the Kansas Southwestern Railroad and an electric transmission line. The land to the south is farmed and is zoned "SF-20" Single Family. The Cowskin Creek lies to the south of this agricultural land. The property has access from 47<sup>th</sup> Street South via an undefined road across the property owned by Sedgwick County, and a recorded ingress and egress easement through the Big Ditch property. This is also the access for the farm ground to the south of the application area.

The majority of land surrounding the application area is zoned for single family use, but is in agricultural use. The area northeast of the site and beyond the Big Ditch is zoned "LI" and is a Sedgwick County maintenance yard. These properties are only separated by ¼ mile in distance, but 47<sup>th</sup> Street South does not connect over the Big Ditch. Traffic to the application area would be via Hoover Road, while traffic to the Sedgwick County maintenance yard is via West Street. Another industrial property close to the application area is Murray Gill Power Center (KGE electric generation facility), which is 1 ½ mile southeast. There is a significant amount of industrial development along Hoover Road, north of MacArthur Road, but the land along Hoover between MacArthur Road and 47<sup>th</sup> Street South still is primarily in agricultural use, with scattered single-family subdivisions. The nearest neighbor to the application area is a residence located at the southeast corner of 47<sup>th</sup> and Hoover. This property also appears to have farm equipment and construction equipment stored on the site, and is zoned "LC" Limited Commercial.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-20" Single Family	Agricultural
SOUTH:	"SF-20" Single Family	Agricultural, scattered residences
EAST:	"SF-20" Single Family	Wichita Valley Center Flood Control
WEST:	"SF-20" Single Family	Railroad, agricultural

**PUBLIC SERVICES:** Access to the property is via 47<sup>th</sup> Street South, an unimproved two-lane county road that ends at the Big Ditch, next over an undefined easement across a tract owned by Sedgwick County and the railroad property, and, then via an ingress/egress easement. Permanent access is an issue that needs to be addressed at the time of platting. Traffic counts on 47<sup>th</sup> are unavailable. Traffic volumes in 1997 along Hoover Road from 47<sup>th</sup> to 55<sup>th</sup> Street South were estimated in the range of 2,000 to 4,999 ADTs. Public water and sewer service is not available; fire protection is constrained by the lack of water service.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for agricultural use, and is located just outside the "new growth" limits recommended by the Sedgwick County Development Guide.

The Land Use – Industrial Objective of the Comprehensive Plan is to enhance industrial activities and development so as to limit the detrimental impacts upon the man-made or natural environment. Strategies to accomplish this objective are: (1) to protect identified industrial areas from encroachment from residential uses by buffers, (2) encourage "planned industrial developments," (3) allow industrial development in rural areas only when agriculturally-oriented, dependent on a natural resource, or as part of an appropriate expansion of an existing industrial area, and (4) channel traffic generated by industrial uses to the closest major thoroughfare with minimum impact upon local residential streets.

**RECOMENDATION:** The Land Use Guide recommends the area for agricultural use, with any industrial development in rural areas to be agriculturally-oriented, natural resource dependent, or as part of an appropriate expansion of an existing industrial area. The site is relatively near a similar industrial use. Additionally, the site offers the unique characteristics of strong buffering due to the railroad on one side, a levee adjacent on a second side, and another levee nearby on the third side of the triangular property. Based on these characteristics, Staff recommends the application by APPROVED, subject to platting within one year, and subject to a Protective Overlay with the following conditions:

1. Permitted uses on the property zoned "LI" Limited Industrial shall be limited to those uses permitted in "SF-20" Single Family, and a tree service business, with associated outdoor wood storage, splitting and chopping, and the sale of wood products, as customarily found with a tree service business, but not including any landfill operations, or any storage/baling as prohibited in Sec. III-D(6)(dd).
2. Permitted uses on the property zoned "GO" General Office shall be limited to those uses permitted in "SF-20" Single Family, and to an office associated with the tree service business only.
3. The above permitted businesses shall be screened and buffered so as not to permit visibility of any outdoor storage from 47<sup>th</sup> Street or from the adjacent property zoned "SF-20".
4. Outside storage of combustible materials shall comply with the 1994 Uniform Fire Code, as adopted by the Sedgwick County Fire Department.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The adjacent property consists of the railroad line and electric transmission line, the levee for the Big Ditch, and an agricultural field. The levee for the Cowskin Creek lies beyond the adjoining agricultural land to the south. The surrounding property is zoned "SF-20" Single Family, except to the northeast of the Big Ditch, which is zoned "LI" Limited Industrial. The surrounding property is used agriculturally, with a residence and commercial use located on the southeast corner of 47<sup>th</sup> and Hoover.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a farmstead and agricultural use. The property could be developed as "SF-20" Single Family with large lot development, but would require private water and sewer service.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Protective Overlay would limit the additional use permitted on the site to a tree service business, which is more compatible with surrounding agricultural activities than other uses permitted in the "LI" Limited Industrial zoning district. The main effect would be the increase in heavy truck traffic along the two-lane unpaved segment of 47<sup>th</sup> Street South and the commensurate increase in traffic on Hoover Road.
4. Impact of the proposed development on community facilities: As recommended with the Protective Overlay, the impact on community facilities is minimal, and is primarily the expected increase in truck traffic along 47<sup>th</sup> and Hoover. If the property were developed at a greater intensity of office or industrial use, it could generate additional impacts due to the unavailability of water service, sewer service and fire protection.

**GOLTRY** "Are there questions? "

**WARREN** "Does the applicant own the agricultural land also in that triangle?"

**GOLTRY** (Indicating) "They own this property, basically."

**WARREN** "Okay, so they don't own that on back?"

**GOLTRY** "No. They don't own this portion and they don't own this portion."

**JOHNSON** "Are there any other questions of staff?"

**MARNELL** "On No. 3 requirement..."

**GOLTRY** "Oh, excuse me. We did have a fourth requirement, which was that outside storage of combustible materials be in conformance with the Uniform Fire Code of the Sedgwick County Fire Department. Excuse me for interrupting you."

**MARNELL** "I don't understand No. 3 even being on there, given the certification **UNABLE TO HEAR THE REST.**"

**GOLTRY** "This is a little bit trickier. Normally, when you have 'LI' property that is adjacent to 'SF-6', there is an automatic zoning code requirement for screening along it. You have a very isolated tract here where there wouldn't be as much visibility from the road, for instance. So, it was an attempt to try to merge together those conditions."

**MARNELL** "With all due respect, it appears to be a road to nowhere. I can't see why you would require the screening to a road that goes nowhere. This involves expense on the part of the property owner. With the description of this land and its coverage, it would seem like what would satisfy this is if the land to the south, which if it is the land zoned 'SF-20', the screen would only be required if that land actually develops."

**KROUT** "I don't have a problem with deleting Requirement No. 3. There is a requirement in the Zoning Code for screening. It will have to be administratively adjusted. I think we have made Gary aware of this. I think we can deal with a deferral unless or until something happens to the south or for a deferral, as long there is screening to the south and the same ownership, or however we work it out. You can eliminate No. 3 and add No. 4 as Donna suggested, and then we will deal with the screening administratively."

**JOHNSON** "Are there any other questions of staff? Thank you. Applicant or agent."

**GARY WILEY** "Mr. Chair, Commissioners, I am here on behalf of the applicant. I might just state that Alfred's Superior Tree Service has been in business since 1980. They now operate out of Haysville and have purchased this land earlier this year. I think in May.

The reason for the dual zoning, the General Office along with the Industrial was to allow the applicant to retain the home, to update it, live there, and utilize the home as his office. That is the reason we went for the General Office, knowing that residential is not permitted in the 'LI' zoning district.

Alfred's is a relatively small company that plans to expand. They now have seven employees, which includes the owner. He has five people that work the field right now and two in the office, but he does plan to expand. That is one of the reasons we are in here today asking for this zoning. He owns, in total over 12 acres. There are some 7 plus acres to the south of this ownership that he does own, but we didn't need all of that for the Industrial so we only asked for what we thought we might need now and in the future.

We are in agreement with the platting. I would like to discuss Items No. 1 and No. 2. They are very, very specific on the Protective Overlay. We are not in disagreement with the Protective Overlay, but what I would like to suggest, and maybe Marvin can relate to this, is maybe going along with the tree service or other low traffic uses as may be determined appropriate by the Director of Planning, so that we wouldn't have to come back and do a change in overlay if we had an appropriate use. I can see a lawn sprinkler construction yard coming in here, a small welding shop, a little transmission shop, or something that would not be a high traffic generator and that can still be utilized in this area.

That would pertain to No. 1 and 2, so if that is something that would be a possible addition to the Protective Overlay and still give the Planning Department, at least, the right to review anything other than the tree service that went in here. Actually, the railroad has started elevating to the south and west of here because the railroad has to cross the Big Ditch. It is very high and you can't see anything from 47<sup>th</sup> Street, as the gentleman had referred to. We do own to the south and there is just actually one little piece of ownership that we don't own. It is residential (indicating) this little piece right here. It is next to the railroad and I wouldn't not see any residential development for this area in the near future. So, we would be in agreement to requesting an Administrative Adjustment on the screening. I would be happy to answer any questions."

**WARREN** "Gary, read that suggestion that you had as a revision or modification to that screening."

**WILEY** "What I would like it to say is to continue with the tree service as originally written here in Item No. 1, or other low traffic uses as may be determined appropriate by the Director of Planning. That gives the Planning staff the right to review anything else that would go in here."

**JOHNSON** "How about Item No. 2?"

**WILEY** "That is what I was suggesting, that Items 1 and 2 be incorporated with that type of language."

**JOHNSON** "I heard No. 1 and I just wanted to make sure we understood you."

**WILEY** "I suggested Nos. 1 and 2 because of the office, it could go with whatever other use might be there."

**OSBORNE-HOWES** "Would you have to do any screening to the adjacent property to the south?"

**WILEY** "No. We own the next 7 plus acres to the south."

**OSBORNE-HOWES** "On 47<sup>th</sup> Street."

**WILEY** "On 47<sup>th</sup> Street here, or down in this area?"

**OSBORNE-HOWES** "Go to your left, right off the.."

**FRYE** "What you said was privately owned."

**WILEY** "This is owned by another individual, but there is nothing but this little piece of triangle here. It is less than .4 of an acre and it is bounded on the west by a railroad track. There is a 138,000-volt KG&E transmission line that runs along the east property line. We don't think it will ever develop in the way of residences."

**OSBORNE-HOWES** "Is there a residence there?"

**WILEY** "No. There isn't."

**OSBORNE-HOWES** "I thought I heard you say there was."

**WILEY** "No. The only residence is the applicant's property, and it is right here at this location."

**HENTZEN** "Just some personal information. Who owns that big house over at 47<sup>th</sup> Street and West?"

**WILEY** "The one on the corner? That is owned by Mr. Cain of Foundations, Inc. Don Cain."

**JOHNSON** "Are there any other questions? Thank you, Gary. Is there anyone else to speak in favor of this? Is there anyone here to speak in opposition? Seeing none, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The adjacent property consists of the railroad line and electric transmission line, the levee for the Big Ditch, and an agricultural field. The levee for the Cowskin Creek lies beyond the adjoining agricultural land to the south. The surrounding property is zoned "SF-20" Single Family, except to the northeast of the Big Ditch, which is zoned "LI" Limited Industrial. The surrounding property is used agriculturally, with a residence and commercial use located on the southeast corner of 47<sup>th</sup> and Hoover. The suitability of the subject property for the uses to which it has been restricted: The property could continue to

be used as a farmstead and agricultural use. The property could be developed as "SF-20" Single Family with large lot development, but would require private water and sewer service. Extent to which removal of the restrictions will detrimentally affect nearby property: The Protective Overlay would limit the additional use permitted on the site to a tree service business, which is more compatible with surrounding agricultural activities than other uses permitted in the "LI" Limited Industrial zoning district. The main effect would be the increase in heavy truck traffic along the two-lane unpaved segment of 47<sup>th</sup> Street South and the commensurate increase in traffic on Hoover Road. Impact of the proposed development on community facilities: As recommended with the Protective Overlay, the impact on community facilities is minimal, and is primarily the expected increase in truck traffic along 47<sup>th</sup> and Hoover. If the property were developed at a greater intensity of office or industrial use, it could generate additional impacts due to the unavailability of water service, sewer service and fire protection.) I move that the request be approved, subject to staff recommendations, and the agent's suggestion that this be worked by the Planning Director, allowing some latitude for additional uses, and to a Protective Overlay with the following conditions:

1. Permitted uses on the property zoned "LI" Limited Industrial shall be limited to those uses permitted in "SF-20" Single Family, and a tree service business, with associated outdoor wood storage, splitting and chopping, and the sale of wood products, as customarily found with a tree service business, or other low traffic and low sewage generating uses as may be approved by the Director of Planning, but not including any landfill operations, or any storage/baling as prohibited in Sec. III-D(6)(dd).
2. Permitted uses on the property zoned "GO" General Office shall be limited to those uses permitted in "SF-20" Single Family, and to an office associated with the tree service business only, or other low traffic and low sewage generating uses as may be approved by the Director of Planning.
3. Removal of Condition.
4. Outside storage of combustible materials shall comply with the 1994 Uniform Fire Code, as adopted by the Sedgwick County Fire Department.

**WARREN** moved, **PLATT** seconded the motion.

**OSBORNE-HOWES** "Marvin, can you define that?"

**KROUT** "It is a pretty broad discretion, but this is kind of an unusual tract. Would you say that we could we say low traffic and low sewage generating uses?"

**WILEY** "Sure."

**KROUT** "Okay, because that is part of our concern with the 'LI' zoning out in the country. I think they are related to each other, but I would feel more comfortable if you said low traffic and low sewage generating."

**WARREN** "That would be all right."

**PLATT** "Yes."

**JOHNSON** "The maker of the motion approves that change as well the second."

**WHEELER** "Did the motion include, though, our conversations on Item 3 about the screening?"

**WARREN** "Oh, I'm sorry. Could I amend my motion to delete item No.3?"

**PLATT** "All right."

**JOHNSON** "The second approves. Is there any other discussion?"

**AMENDED MOTION:** I move that the request be approved, subject to staff recommendations, and the agent's suggestion that this be worked out by the Planning Director, allowing some latitude for additional uses, for low traffic and low sewage generating uses, and deleting item No. 3.

**WARREN** moved, **PLATT** seconded the motion, and it carried unanimously (13-0).

8. **Case No. CU-535** – Riverfront Properties (Owner), c/o Fran Jabara (Agent); City of Wichita (Owner), c/o Allen Eichaker; BG Products, Inc. (Purchaser), c/o Galen Myers (Agent) request a Conditional Use permit to allow ancillary parking on property described as:

Lots 20 and 22, EXCEPT the East 10 feet, Water Street, Fechheimer's Addition to Wichita, Sedgwick County, Kansas.  
Generally located north of Orme Street, west of Water Street and south of Kellogg.

**LISA VERTS**, Planning Staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use to permit off-street parking on property zoned "B" Multi-family Residential. The application is for two (2) separate properties, both located west of Water Street, north of Orme Street, and south of Kellogg (US54). The applicant, BG Products, Inc., is expanding its office and manufacturing facilities, west of the subject areas, and requires additional off-street parking to meet Zoning Regulations.

Both of the subject properties are bordered to the south by single-family residences zoned "B" Multi-Family. On the east, both properties are bordered by Cambridge Suites on property zoned "LC" Limited Commercial. Kellogg (US54) borders the northern most subject property on the north and vacant land, zoned "GC" General Commercial, borders the southern most subject property on its north. To the west of both subject properties is BG Products on property zoned "LI" Limited Industrial.

The applicant has provided a site plan for the development of the parking areas. There is a 10-foot alley right-of-way along the rear property line of the south parking area that will be made inaccessible for property owners to the north by the development of this parking area as shown on the submitted site plan. However, the owners to the north apparently have not utilized this right-of-way for access purposes. The applicant should preferably pursue vacation of all of the alley right of way north of Orme Street. Alternatively, the applicant may be able to obtain a Minor Street Privilege and lease this right of way from the City of Wichita for the intended use. In this case, the applicant would also be required to dedicate additional contingent right-of-way along the portion of the alley that is under the applicant's ownership to meet the City standard of 20 feet. Additionally, the applicant would be required to dedicate 20 feet of return access contingent right-of-way to Water Street along the north boundary of Lot 2, Fechheimer's Addition.

Both site plans show an 8-foot front setback along Water Street for both parking areas. The Unified Zoning Code (Code) states that "Off-street parking spaces, ingress and egress drives, and circulation aisles shall not occupy any part of a required front setback [20 feet in "B" District];" however, the Code does allow for an Administrative Zoning Adjustment which will "[permit] parking in residential districts to be located within a required front yard, but in no case closer to a front property line than eight feet." The applicant will be required to apply for said Administrative Zoning Adjustment.

Solid screening, either by 6-foot solid wood fence or masonry wall, shall be provided in conformance with the Unified Zoning Code on all property lines that are adjacent to residentially zoned property. Staff is currently working with the applicant regarding a landscape plan to provide appropriate screening of the parking area from Water Street and the surrounding residential uses. The solid screening fence and appropriate landscaping should provide for adequate screening from the north, east, and south.

**CASE HISTORY:** The subject properties occupy lots in the Greenbay Addition, which was platted October 17, 1929, and the Fechheimer's Addition, platted February 3, 1887.

**ADJACENT ZONING AND LAND USE:**

A)

NORTH: Kellogg (US54)  
SOUTH: "B" – Single-Family Res.  
EAST: "LC" – BG Products  
WEST: "LI" – Cambridge Suites

(B)

NORTH: "GC" – Single-Family Res.  
SOUTH: "B" – Single-Family Res.  
EAST: "LC" – BG Products  
WEST: "LI" – Cambridge Suites

**PUBLIC SERVICES:** Municipal water and sewer service is available to these sites. Water Street, a local street, provides access to these sites, but no traffic volumes are available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as transitional between Commercial, Industrial, and Low Density Residential. The commercial locational guidelines of the Comprehensive Plan recommend that commercial uses should be located in compact clusters versus extended strip developments, except for areas and streets where these uses already exist or where traffic patterns, surrounding land uses, and utilities can support such uses. The Plan also recommends that commercial development should have site design features that limit noise, lighting, and other activity so as to not adversely impact surrounding residential areas. The MAPC has an unofficial policy of supporting the expansion of existing businesses when appropriate.

**RECOMMENDATION:** Based on information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. Development of the parking lots shall comply with the submitted site plan and with the standards listed in Section III-D.6.p of the Unified Zoning Code.

- B. The applicant shall submit an application for an Administrative Zoning Adjustment to allow parking within the 20-foot front yard setback, but no closer than eight (8) feet from the front property line. This must be approved prior to issuance of any permits.
- C. The applicant shall submit an application to vacate the entire length of the 10-foot-wide ally right-of-way north of Orme Street, or obtain a Minor Street Privilege for the "temporary" use of the alley. This must be approved prior to issuance of any permits. Upon approval, the site shall be developed in conformance with the submitted site plan.
- D. In the event that the vacation is not approved, the applicant shall be required to dedicate additional contingent alley right-of-way by separate instrument to meet the City's 20-foot standard alley width requirement along the portion of the alley under the applicant's ownership and a contingent right-of-way along the north property line of Lot 2, Flechheimer's Addition for return access to Water Street.
- E. Any violation of the conditions approved as part of this request shall render the Conditional Use null and void.

The staff's recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The area surrounding these properties is transitional in nature. This use, although mixed with existing residential homes, provides a relatively low-impact transition from manufacturing uses to low-density residential uses. The required landscaping along Water Street and the solid fencing should help to minimize the impact on the surrounding residential uses.
- 2. Suitability of the subject property for the uses to which it has already been restricted: The site is currently zoned "B" Multi-Family and could remain as such; however, the neighborhood has commercial uses to the east, industrial uses to the west, and Kellogg Highway to the north. These existing uses make this property less desirable for residential uses.
- 3. Conformance of the requested change to adopted or recognized Plans/Policies: The Comprehensive Plan recognizes this area as a transition region and would support commercial uses. The MAPC has an unofficial policy of supporting the expansion of existing businesses when appropriate.
- 4. Impact of the proposed development on community facilities: The proposed parking areas will not require municipal sewer and water service. Water Street is a paved street, which will be minimally impacted by the increase in traffic.

**VERTS** "CPO Council 1 did recommend approval on this. I will stand for questions."

**JOHNSON** "Are there any questions of staff? Applicant or agent."

**DAVID PARRISH** "I am the architect/agent for the owner. Galen Meyers is here, the president of the Company, and will be available to answer any questions concerning the history of the company or the direction of the company."

I really don't have a prepared speech, but I am available to answer any questions regarding the site plan or technical issues."

**JOHNSON** "Are there any questions of the applicant? Thank you. Is there anyone else to speak in favor of this?"

**GALEN MEYERS** "Good afternoon. I am Galen Meyers, the President of BG Products. I will just take a couple of minutes to tell you about BG. You have seen us grow down on the riverbank, but probably don't realize that we started in 1986 with 13 employees. We are up to 82 employees now with a payroll of over \$2-1/2 million, so we think we add a lot to the community here in Wichita."

With the construction of our new warehouse expansion, it required additional parking spaces. Like I said, we have 80 some employees, but permitting says we have to have parking space for 136 because of the size of the facility that we have, thus we needed more parking space.

We contracted with the City to buy two of those lots. Both of them were used by Davis Moore in the past, they did parking on them. Apparently the zoning wasn't the same as what it would be required today, so we are going in for a Conditional Use on that north parking lot that was explained to you. Our agreement with the City is also contingent upon proper zoning, or use of the lots. We are set to close with the City tomorrow on those two City lots. The other lot, Fran Jabara owns, and again there is condition tied to it that we have the proper zoning so that we can turn that into a parking spot.

That is the need for this, the growth of the company. We are excited about what we are doing over there, and just ask that you follow along with what the recommendation is. Are there any questions?"

**MCKAY** "I would just like to make a statement. I am just glad to finally see somebody finally close on a lot with the City."

**MEYERS** "Well, it hasn't closed yet. It hasn't been easy to get this far."

(Laughter)

**JOHNSON** "Are there any other questions? Thank you, sir. Is there anyone else to speak in favor of this? Is there anyone to speak in opposition? Seeing none, I will bring it back to the Commission."



**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The area surrounding these properties is transitional in nature. This use, although mixed with existing residential homes, provides a relatively low-impact transition from manufacturing uses to low-density residential uses. The required landscaping along Water Street and the solid fencing should help to minimize the impact on the surrounding residential uses. Suitability of the subject property for the uses to which it has already been restricted: The site is currently zoned "B" Multi-Family and could remain as such; however, the neighborhood has commercial uses to the east, industrial uses to the west, and Kellogg Highway to the north. These existing uses make this property less desirable for residential uses. Conformance of the requested change to adopted or recognized Plans/Policies: The Comprehensive Plan recognizes this area as a transition region and would support commercial uses. The MAPC has an unofficial policy of supporting the expansion of existing businesses when appropriate. Impact of the proposed development on community facilities: The proposed parking areas will not require municipal sewer and water service. Water Street is a paved street, which will be minimally impacted by the increase in traffic.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. Development of the parking lots shall comply with the submitted site plan and with the standards listed in Section III-D.6.p of the Unified Zoning Code.
- B. The applicant shall submit an application for an Administrative Zoning Adjustment to allow parking within the 20-foot front yard setback, but no closer than eight (8) feet from the front property line. This must be approved prior to issuance of any permits.
- C. The applicant shall submit an application to vacate the entire length of the 10-foot-wide ally right -of-way north of Orme Street, or obtain a Minor street Privilege for the "temporary" use of the alley. This must be approved prior to issuance of any permits. Upon approval, the site shall be developed in conformance with the submitted site plan.
- D. In the event that the vacation is not approved, the applicant shall be required to dedicate additional contingent alley right-of-way by separate instrument to meet the City's 20-foot standard alley width requirement along the portion of the alley under the applicant's ownership and a contingent right-of-way along the north property line of Lot 2, Flechheimer's Addition for return access to Water Street.
- E. Any violation of the conditions approved as part of this request shall render the Conditional Use null and void.

**MCKAY** moved, **MICHAELIS** seconded the motion, and it carried unanimously (12-0).

9. **Case No. Z-3331** – Ray Duling (owner); Baughman Company c/o Terry Smythe (agent) request a zone change from "SF-6" Single-Family Residential to "LC" Limited Commercial on property described as:

The East 350 feet of the South 660 feet of the Southeast Quarter of Section 1, Township 27 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick county, Kansas; EXCEPT that portion conveyed to the Board of County Commissioners of Sedgwick County, Kansas by Deed recorded on Film 94, Page 140, described as: Beginning at the Southeast corner of the West of Southeast Quarter of section 1, Township 27 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence West along the South line of said Southeast Quarter a distance of 350 feet; thence North parallel to the East line of said Southeast Quarter to a point 80 feet North of the South line of said Southeast Quarter; thence East parallel to the South line of said Southeast Quarter; thence East parallel to the South line of said Southeast Quarter a distance of 200 feet; thence South and parallel to the East line of said Southeast Quarter to a point 60 feet North of the south line of said Southeast Quarter; thence East parallel to the South line of said Southeast Quarter to the East line of the Southeast Quarter, said point being 60 feet North of the Southeast corner of said Southeast Quarter; thence South along the East line to the point of beginning. Generally located at the northwest corner of 21<sup>st</sup> Street North and 119<sup>th</sup> Street West.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting "LC" Limited Commercial zoning for a 4.2 acre tract, with approximate dimensions of 330 feet x 600 feet, located at the northwest corner of the intersection of 21<sup>st</sup> Street North and 119<sup>th</sup> Street West. The property is currently vacant. It is adjacent on the west with a commercial tract, Harp Addition. Cedar Downs Addition, a residential development with approximately 65 single-family homes on lots averaging 1 ½ to 2 acres in size, is adjacent to the application area to the north and west of Harp Addition.

The other three corners at this intersection have a similar pattern of "LC" Limited Commercial zoning on the corner, surrounded by single family development. Sun Ridge Addition on the southwest corner has between two and three acres of commercial property, bordered by one large lot suburban residence along 119<sup>th</sup> Street West, and the remainder of the corner is traditional single family houses on relatively compact lots. DP-218 Aberdeen C.U.P. is located immediately to the east of the application area and has eight

acres of commercial property, surrounded by Aberdeen First Addition, a single-family subdivision. All "LC" uses are permitted except adult entertainment establishments, private clubs, taverns, and drinking establishments, with additional restrictions added within 150 feet of the north and east property lines adjacent to the single-family areas. These additional restrictions are to prohibit drive-in and drive-through restaurants, convenience stores, service stations, car washes and overhead doors for auto service and/or repair facing either 21<sup>st</sup> Street North or 119<sup>th</sup> Street West within this 150 foot strip. DP-160 Woodbridge C.U.P. retained 0.8 acre for commercial uses on the southeast corner, and restricted uses to banks, convenience stores, service stations, offices, pharmacies, medical and dental offices, restaurants, retail shops, and tire, battery and accessory stores. This small retail site is surrounded by single family homes.

The site is below the minimum size of 6.0 acres requiring Community Unit Plan review for commercial use. As a result, restrictions on the property would be those contained in the Sign Code regarding signage, and the Unified Zoning Code related to screening, compatibility standards, and the Landscape Ordinance regarding buffering adjacent to residential use on the north side of the property and across the street to the east. At the time of platting, additional right-of-way and access controls would be established for the property in order to meet design standards for the future intersection improvements.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-20" Single Family Residences  
SOUTH: "LC" Limited Commercial; Vacant, residences  
"SF-6" Single Family  
EAST: "LC" Limited Commercial; Vacant, residences  
"SF-6" Single Family  
WEST: "LC" Limited Commercial; Vacant, residences  
"SF-20" Single Family

**PUBLIC SERVICES:** The property has access to 21<sup>st</sup> Street North, and 119<sup>th</sup> Street West, two lane arterial roads. Traffic volumes in 1997 were 1,322 ADTS for 21<sup>st</sup> Street North and 4,448 ADTs for 119<sup>th</sup> Street West. Volumes for 21<sup>st</sup> in the 2030 are projected to increase to 14,000 east of 119<sup>th</sup> and 15,000 west of 119<sup>th</sup>. Volumes for 119<sup>th</sup> in 2030 are projected to increase to 11,000 south of 21<sup>st</sup> and 2,000 north of 21<sup>st</sup>. Improvements to 119<sup>th</sup> south of 21<sup>st</sup> are on the 2000-2009 CIP. Water service is available. The property lies just beyond the sanitary sewer growth limits for 1997; which means there is not sewer capacity currently to serve this site. Availability of sewer service will be determined at the time of platting. A site plan may be required by Systems Planning at the time, in order to evaluate sewer capacity demand. Sanitary sewer is available to the other three corners of the intersection.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as "future commercial development likely". It is outside the boundaries of the area included in the Far West Side Commercial Development Policy.

**RECOMENDATION:** The property is bordered by existing single-family residences on the north and across 119<sup>th</sup> to the east along the northern 150 feet of the site. In addition, some of the more intense "LC" commercial uses are excluded on the retail sites at the northeastern and southeastern corners of 119<sup>th</sup> and 21<sup>st</sup>. Based on this information, Staff recommends the application be APPROVED, subject to platting within one year and subject to a Protective Overlay with the following conditions:

1. The following uses shall be excluded: adult entertainment establishments, private clubs, taverns, and drinking establishments. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment.
2. The northern 150 feet of property shall be restricted to those uses permitted in "NR" Neighborhood Retail zoning district.
3. Signage is limited to monument signs with a maximum of 20 feet in height and with a minimum spacing of 150 feet between signs. No offsite or portable signs are permitted.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The land use pattern on the other three corners of the intersection of 21<sup>st</sup> Street North and 119<sup>th</sup> Street West has commercial property near the intersection. The commercial area is surrounded and contained from turning into strip development by residential neighborhoods that wrap around the commercial tracts. The effect of this rezoning would be to complete the pattern already established on the other three corners.
5. The suitability of the subject property for the uses to which it has been restricted: The property is currently vacant and is unlikely to be developed with single family residential use.
6. Extent to which removal of the restrictions will detrimentally affect nearby property: "LC" Limited Commercial provides a wide variety of uses that could occupy the tract, which could impact the residential properties to the north and northeast. The Protective Overlay, which restricts retail uses to neighborhood-serving and less intense commercial uses along the northern strip of the application area, would mitigate this impact on the nearby residential uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is in conformance with the Wichita Land Use Guide.

5. Impact of the proposed development on community facilities: The projected increase in traffic should already have been anticipated since the land was recommended for commercial use on the Comprehensive Plan. Sewer service will need to be extended.

**GOLTRY** "CPO Council 5 heard this case last night and voted 4-3 to recommend in favor of the rezoning with the stipulation that the MAPD recommendation (Item No. 2, 'the northern 150 feet of property shall be restricted to those uses permitted in 'NR' Neighborhood Retail zoning district) be deleted from the Protective Overlay as it was unnecessary due to the proposed 'Protective Overlay'. There is a little bit of confusion from the CPO report we have received, indicating that they believe that they instead accepted the Protective Overlay that has been separately provided to you, that has been offered. It is a voluntary Protective Overlay offered by the client and also it was attached to the CPO report. It wasn't clear to those of us in attendance that they actually adopted this Protective Overlay, but it seems, from the staff report from the CPO, that they did.

The people who voted in opposition were primarily concerned by the fact there was apparently an historic farm house in this particular tract, and they were hoping that it would be re-developed in a residential manner, although it is surrounded by commercial use.

At any rate, I will let the applicant speak further from this point, and suffice it to say that what this Protective Overlay does is the very same thing as our Item No. 1 does. The difference between it and our Item No. 2 is that it is slightly less stringent in that it just eliminates a few 'LC' uses that they considered to be the most objectionable. They do not intend to have drive-ins, convenience stores, service stations, car washes, and overhead doors associated with auto repair."

**HENTZEN** "There is no home on that property now."

**GOLTRY** "No. I believe they told me that it burned approximately 5 years ago."

**HENTZEN** "It sat empty for umpteen years."

**MCKAY** "And it was a pile of junk 10 years prior to that."

**GOLTRY** "Are there any questions of staff?"

**HENTZEN** "The requirements that you are putting on this corner, are they on any of the red spots there on the map?"

**GOLTRY** "Yes, they are. If you would look at the one right here (indicating). It has basically the exact same restrictions that are voluntarily offered. They have a northern 150-foot strip also, and they have the same restrictions on the total tract for 'LC' uses. This tract has even more stringent conditions. It is highlighted in the staff report. It is limited to banks and a few other uses that I recited in the staff report. It is fairly limited."

**WARREN** "Item No. 3 bothers me because first we don't have an unrestricted sign law, it is 25 foot, I think, in the City of Wichita. That is as high as we can go anyway, but when we say monument signs, quite often we are going to prohibit the people who have national chains, where trade dress and national signage is extremely important to them. And I don't want to eliminate those people. They are good. I don't want to do that. I am opposed to Item No. 3 with the words of '20 foot and monument-type' in it. I think we ought to let them put a sign up within the regulations that we now have, which is the maximum height of 25 foot."

**GOLTRY** "Normally, because it is below a 6 acre tract, it is not part of the CUP provisions. Were it part of the CUP provision, it would have had more stringent sign regulations. Correct me if I am wrong, but I don't believe that the applicant is..."

**WARREN** "That is only if we decide it should have that. It is not a requirement that it has that. It is only that maybe somebody has decided that maybe that is policy. I am concerned about the national chain organizations that are getting restricted from coming into our community. National signage is important to those guys. Extremely important."

**JOHNSON** "Are there any other questions of staff? Thank you. Applicant or agent."

**TERRY SMYTHE** "I am here on behalf of the applicant. We agree with staff comments. The one slight change we have is that the handout you see attached to your staff report is our Protective Overlay that is on our letterhead. I have more copies if you need them. Oh, it is attached to the CPO report? Okay.

On this page here that we have offered as a Protective Overlay, those same conditions apply to the north 150-foot of this CUP. I mirrored these requirements and put them on this piece. That is where the only slight difference of opinion we have of staff is. We would prefer that these Protective Overlays apply to that and make them comparable to what is across the street under the CUP from a couple of years ago."

**MCKAY** "Just in the north 150 feet and that is all?"

**WARREN** "You want that instead of the 'NR'?"

**SMYTHE** "Correct."

**JOHNSON** "Marvin, do you want to comment on that?"

**KROUT** "That is acceptable to staff."

**WARREN** "What about the sign issue? I suppose this is being developed speculatively, or do you have a purpose for this?"

**SMYTHE** "No. It is speculative zoning."

**WARREN** "And you don't have any problem with the signage?"

**SMYTHE** "Our preference would be what we have here."

**MARNELL** "Is your preference to replace Nos. 1,2, and 3 with this, do I understand you right?"

**SMYTHE** "Correct."

**MCKAY** "It's just 1 and 2, isn't it, Terry?"

**SMYTHE** "Well, 3 is the addition of the signage restrictions, and I think those are the same signage restrictions that apply to the CUP across the street to the east. The applicant's request is that we would use this Protective Overlay instead of 1,2 and 3."

**KROUT** "Instead of 1 and 2, or instead of 1,2 and 3?"

**SMYTHE** "Instead of 1,2 and 3."

**KROUT** "So you are opposed to the sign restrictions?"

**SMYTHE** "The applicant is opposed to the sign restrictions. He did not offer that initially. There has been an illness in the applicant's family, and I haven't been able to get hold of him today, but his initial impression, when we discussed this, was to do with it as exactly across the street in terms of uses. At no time did he instruct me to waiver on the sign."

**KROUT** "Which is exactly what is across the street."

**SMYTHE** "Under the CUP, correct."

**KROUT** "Right."

**MCKAY** "Do you, or don't you?"

**SMYTHE** "The applicant's preference is not to do that. Not to have the sign restrictions."

**GAROFALO** "Across the street, do they have a sign restriction?"

**SMYTHE** "I would assume in the CUP to the east. CUPs always have sign restrictions. That is pretty standard anymore."

**MCKAY** "You guys did the work. Do they? That was Jay's piece of ground."

**SMYTHE** "That was too far back, John, I don't remember."

**OSBORNE-HOWES** "Can I ask Marvin a question and then come back? It just seems to me that we have done lots of things on 21<sup>st</sup> Street, including signage and landscaping and things to really take better care of 21<sup>st</sup> Street than we did Rock Road. You have been a part of some of these things as we have moved on."

**SMYTHE** "That is true."

**OSBORNE-HOWES** "Am I not correct that that would then be in conformance more with what we have done all along 21<sup>st</sup> Street?"

**SMYTHE** "You are correct. Most of the stuff along 21<sup>st</sup> Street was probably under a CUP in which there were sign restrictions."

**OSBORNE-HOWES** "Not all of them are, and they still have those."

**SMYTHE** "Predominately, most of them are."

**JOHNSON** "Are there any other questions? Is there anybody else here to speak in favor of this item? Is there anyone to speak in opposition? Please come to the microphone, please."

**TERRY CARNEY** "My proper name is Terence E. Carney. I am one of the homeowners whose property abuts the Duling property, the property we are discussing at this time. The reason I came today was not to speak in opposition, but hopefully to be a voice of rationality in all of this. I know that there are some people who are objecting, and there are some people who would object to anything. I had not ever met Mr. Ray Duling before 1994, when Mr. Duling purchased the property in question, which was known to

us in the area as the Goldstein property, which Mr. Hentzen is well aware of. It was a blessing to the neighborhood when the Goldstein home burned down. Whether it had help or not, is still somewhat debatable. (Laughter)

However, I would, ladies and gentlemen, if you would permit me, draw an analogy between 21<sup>st</sup> Street and Rock Road and 21<sup>st</sup> Street and Maize Road. We all know what 21<sup>st</sup> and Rock Road is like. I understand from what I read that there is going to be a somewhat upscale shopping plaza called New Market built in the area of 21<sup>st</sup> and Maize. Is this so, Mr. Hentzen? Okay.

So the land that we are speaking of now, where I live, is barely a mile west of the 21<sup>st</sup> and Maize area, and I think any person old enough to purchase property or build a home or purchase a home in the area of 21<sup>st</sup> Street and 119<sup>th</sup> Street should know that it is a foregone conclusion, or an assumption that 21<sup>st</sup> Street in this area will go commercial. Twenty-first Street, also, apart from being close to the potential 21<sup>st</sup> and Maize is also an arterial road out to Cheney Lake, and it is also just at the City limits. So anyone who lives there must surely know that it is going to go commercial, and that is a given.

When I tried to interject something a little while ago, speaking out of turn, I was going to say that the Protective Overlay restriction, I understand, is something voluntary by Mr. Duling. When I said a little while ago that I had not met Mr. Duling or Mr. Nick Duling before that time, Ray spoke with many of us when he purchased the property and one of the things that he wanted to impress upon us was that it was a very high priority to Ray to be a good neighbor. And they have been good neighbors, too, in many ways. Mr. Nick Duling, as well, has loaned me heavy equipment and declined to charge for that. I have every confidence, at this time, that while Duling is involved here, what happens on that property will consider and keep in mind the residents who are living out there at that time.

Since Mr. Smythe is here, and as our property backs directly onto this, there is what Mr. Hentzen would know as a 'shelter-belt'. A very thick shelterbelt there that is very nice when you look out of your back window, or kitchen window, looking towards 21<sup>st</sup> Street. There is a wonderful windbreak and shelter-belt, probably 25 feet high, and I would be most concerned whether I need to address this to the Planning Commission or to Mr. Smythe sitting here, that that shelter-belt, where there is technically an easement, also, the people who ultimately receive that property, whether they buy it from Mr. Duling and then own it, that they don't destroy the shelter-belt, and that they continue with Mr. Duling's attitude of considering the feelings of the residents in the area. The shelter-belt, windbreak is very important to me scenically."

**JOHNSON** "Sir, you are out of time. Do you need more time?"

**CARNEY** "If I may, a few more seconds."

**MOTION:** That the speaker's time be extended for one minute.

**MCKAY** moved, **CARRAHER** seconded the motion, and it carried unanimously (12-0).

**CARNEY** "When one looks from my kitchen window, which is a bay window, looking to the south, one would not know, looking out there, whether we were sitting in Kansas, Virginia, Missouri or Oklahoma, and while much of it may be the landscaping and things that I have planted, a very large part of that is the shelter-belt, which I would hate to see go. Perhaps that might be addressed to Mr. Smythe, rather than these ladies and gentlemen. Thank you for your time. I did not speak in opposition in any way whatsoever. I came in case there were people here who were in opposition."

**JOHNSON** "Thank you. Are there any questions? Is there anyone else here to speak in opposition? Seeing none, I will bring it back to the Commission."

**MCKAY** "I was going to ask Terry to come back up. I have two or three questions. One question is, the tree line to the north, is that on your property or on adjoining property to the north, or what?"

**SMYTHE** "The hedgerow was right down the property line. I see a series of fences that are right in the middle of that hedgerow, so I am going to have to make an assumption that it is right down the middle of it. We will, when we plat the property, make sure that we keep all of the utilities off that hedge because I think that hedge is critical to this development."

**MCKAY** "That was my point. I will remember that when it comes up for platting. The second thing is that you offered your Overlay. Why did you go further and put service stations, car washes and not accept the very simple statement that staff made? Are you trying to be a good guy, or what?"

**SMYTHE** "I always try to be a good guy. Actually, when we submitted the case, well, the staff report came out about the same time I submitted this Protective Overlay. I knew there were some concerns about maybe some of the people to the north in the Aberdeen residential area. I looked at that CUP, mirrored those provisions and put them on our property. That same day that I submitted this to Donna, I think, the staff reports were sent out. So Marvin's staff has to make a determination of how to protect the people to the north."

**MCKAY** "I understand that, but you were pretty strongly supportive that you didn't want to do 1,2 and 3 here, and to me, this is a lot more restrictive than they are. I just want to make sure that the statement you made is what you want to stand by."

**SMYTHE** "Yeah. Quite frankly, I firmly believe that the Neighborhood Retail is more restrictive than what I am offering. There is a number of uses, like convalescent homes and hospitals and the option to do self-storage, and post offices that are still allowed. I still have that opportunity in what I am offering that I wouldn't have in 'NR'. Marvin can clarify that."

**KROUT** "Those uses, plus the auto repair, and auto parts uses. Those are about the only uses."

**SMYTHE** "I was merely trying to be sensitive."

**KROUT** "It is not more restrictive."

**JOHNSON** "Are there any other questions? Thank you. I will bring it back to the Commission. What is the pleasure of the Commission."

**GAROFALO** "I would like to hear from staff. Are you concerned about this, or not?"

**KROUT** "No. I think that, as he said, it does mirror what we did on the other side, and we were just doing something for convenience sake. The only use we had some concern about was auto repair, and I think the requirement that you can't locate overhead doors facing residential will deal with the noise issue and buffer it properly, so we are fine with the uses as they have been suggested to be restricted. I would hope that the Planning Commission would support the policy that we had in general in the developing areas, and especially on 21<sup>st</sup> Street of sign control. I think that most people on the West side can be prouder of 21<sup>st</sup> Street than the East side can be of Rock Road."

**PLATT** "I still am not completely clear. In other words, you are supporting substituting his overlay for 1 and 2, but you are still asking us to support No. 3?"

**KROUT** "Yes."

**PLATT** "Okay. That is what I wanted to be clear on."

**MCKAY** "Marvin, you said that the sign regulation is exactly the same as the one on the other corner?"

**KROUT** "No. There are some differences, but monument signs is not part of that one, but there are some other restrictions that are not part of this one, so it is not exactly the same, but that is a little older CUP. I would say that over the last 3 years or so, we have been pretty consistent that 20-foot monument-type signs is what we are looking for, unless it is a larger center where we are looking for some kind of a monument sign, a larger identification sign for a larger project, and then we would go to a larger sign in addition."

But the CUPs have been developed over the years, and as Terry said, it is not consistent, but I think there is beginning to be a consistent look on 21<sup>st</sup> Street and the more recent CUPs have all had these requirements."

**OSBORNE-HOWES** "I just want to echo what Marvin has said, and also to point out that 119<sup>th</sup> Street is not the major intersection that 21<sup>st</sup> and Maize is. Also, I guess I want to ask about the screening. Can we change any of the wording to talk about the shelterbelt? Perhaps we can substitute some of the screening, depending on whether it is on the property line. Maybe we can at least talk about maintaining it."

**KROUT** "Should a shelter-belt provide an all-year around screen? I guess I would say that it would probably be in the applicant's interest to preserve that because then they wouldn't be required to plant trees and build a screening fence, which would otherwise be requirements of the Zoning Code. So I think that between the natural inclination that you would want to save that rather than to have to tear it down and build back a new fence and new trees, and also the fact that we can protect it by the location, the easement and the platting process, I don't think it is necessary to have an additional condition in the Protective Overlay."

**MCKAY** "What if you realize that that is on single-family and not on this, or it is not down the middle? Because I was going to back off until the platting stage, but if we find out it is on the single-family, then we can't restrict those people to do anything."

**KROUT** "That is right, you can't. Then they will be required, unless they apply for some administrative waiver, to put in planting and screening, if it is on the other property."

**WARREN** "Again, on this item No. 3. I have a feeling that maybe I am going to lose on that, but I think it is extremely important for us to understand that we also represent a group of merchants who feel that their signage is extremely important, and this monument sign just knocked them out. It is so important to them that they won't come to those locations if they can't have that signage, and they will live with the City Code. We have a pretty restrictive City Code. I am not going to support anything that would delete Item No. 3. I think that is important."

**KROUT** "Commissioner Warren, over the years, we have seen franchise after franchise live with restrictions that are this restrictive and more, including on west 21<sup>st</sup> Street. Can you give us an example of a franchise that won't come to Wichita because they can't live with a 20-foot monument sign?"

**WARREN** "Well, I can't speak for all of these businesses, but I have heard them talking many times of the thousands and millions of dollars that they spend on signage and how important that is. When you look at what some of these national chain signs cost, and when you look at their reverence to efficiency and reducing costs, you know they must think they are pretty darn important because they are spending tons of money on these signs and they have become a very, very important part of that national chain."

**MICHAELIS** "I think I agree with that in principle, but I think we are dealing with a speculative case here. We are not even dealing with a specific company that is coming in and has said 'I need a sign'. Correct me if I am wrong, but if that does happen, they could come back and apply for a variance based on their needs, is that correct?"

**KROUT** "They would amend the Protective Overlay to allow for a larger sign."

**MICHAELIS** "In that case, I think this is just a general thing that I wouldn't have a problem with."

**WARREN** "Of course, it is these speculative cases that we are representing. It is an element that we don't know who they are or what, and that is why I would like to leave it open for them, but let's get on with it."

**PLATT** "I think it is interesting that the oldest shopping center in Wichita, Parklane Shopping Center was once the nicest thing we had in the community. Then, when it hit the competition, particularly with Towne East, when it opened, it slowly went downhill, and its ability to attract these so-called national firms declined. It continued to go down hill and down hill until it was in pretty bad shape. It is now in the process of getting a major face-lift. Now, I think it is very interesting that one of the things they are doing is eliminating all of the individual so-called national signs and they are going to sign control. I think you all know who owns the Park Lane Shopping Center."

**JOHNSON** "Is there any other discussion? What is the pleasure of the Commission?"

**MOTION:** Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The land use pattern on the other three corners of the intersection of 21<sup>st</sup> Street North and 119<sup>th</sup> Street West has commercial property near the intersection. The commercial area is surrounded and contained from turning into strip development by residential neighborhoods that wrap around the commercial tracts. The effect of this rezoning would be to complete the pattern already established on the other three corners. The suitability of the subject property for the uses to which it has been restricted: The property is currently vacant and is unlikely to be developed with single family residential use. Extent to which removal of the restrictions will detrimentally affect nearby property: "LC" Limited Commercial provides a wide variety of uses that could occupy the tract, which could impact the residential properties to the north and northeast. The Protective Overlay, which restricts retail uses to neighborhood-serving and less intense commercial uses along the northern strip of the application area, would mitigate this impact on the nearby residential uses. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is in conformance with the Wichita Land Use Guide. Impact of the proposed development on community facilities: The projected increase in traffic should already have been anticipated since the land was recommended for commercial use on the Comprehensive Plan. Sewer service will need to be extended.) I move that we recommend to the governing body that the request be approved, subject to platting within 1 year and the following conditions of a Protective Overlay.

1. No parcel within this plat shall allow the use of adult entertainment establishments, private clubs, taverns, and drinking establishments. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment.
2. All other uses in the "LC" Zoning district will be allowed except within the north 150 feet where the following uses will be eliminated: Drive-in and drive-through restaurants; Convenience stores; Service Stations; Car washes; No overhead doors for auto service and/or repair facing 119th Street West.
3. Signage is limited to monument signs with a maximum of 20 feet in height and with a minimum spacing of 150 feet between signs. No offsite or portable signs are permitted.

**OSBORNE-HOWES** moved, **GAROFALO** seconded the motion, and it carried with 11 votes in favor. Warren opposed.

-----  
Item taken out of order

**13a. PUD-4** – Establishment of a Planned Unit Development for rehabilitation, administrative offices, material warehousing, residences and vocational facility for persons of low vision or who are blind, on property currently zoned "TF-3" Two-Family Residential and generally located north of Pawnee and west of Water.

**JOHNSON** "I will be abstaining from this item. I have a conflict of interest."

Garofalo assumed the chair.

**KROUT** "We have 15 minutes before we can start with those cases advertised to begin no earlier than 3:30. We have several miscellaneous items that we can cover."

This is an addendum to your agenda. It should be on your table labeled as Item 13a. This has to do with a Planned Unit Development for Envision at Pawnee and Water Streets.

The PUD was approved with some restrictions. Because this was in a residential neighborhood and also across the street from a park, there was concern on aesthetics. In the Planning Commission recommendations, which were approved by the City Council, it said the materials to be used for the buildings on this site, an elevation drawing shall be submitted and approved by the MAPC prior to the issuance of building permits. This is something that we don't usually do, it is very rare. But because of this special location, and because of the size of this building in relationship to the surroundings, the Planning Commission felt that they ought to take a look at how it was going to be developed.

Initially, the discussion in the Planning Commission meeting, and I think we attached the notes, indicated that it was going to be tilt-top concrete with some masonry and glass in the office area and that is partly true. We would like for the applicants to explain what their plan is and for you to see if you are prepared to approve the building elevations that have been submitted. They are on the fold-out page at the end of this hand-out we gave you. This is not a public hearing item, but I thought you might like a little bit of explanation, and then if you have any questions. We would need a motion, for them to get a building permit, that you do approve the elevations that have been submitted. Is there someone here from Envision who would like to give a presentation?"

**PAUL CAVANAUGH** "Good afternoon. Thank you for your time. I am an architect with Places Architects. We are the firm that has been working with Envision on their project. It is at the northwest corner of Pawnee and Water, as you know. We last presented in October of last year and brought some very preliminary schematic plans and conceptual ideas to you.

Some other people are here with me from Envision, and I would like for you to know Linda Merrill, the President of Envision, she is right here. I would also like for you to meet Mr. Lionel Alford; Mr. Bob Ferris; and Kay Arvin, who are boardmembers of Envision. They are right back here. And then, Lester Arvin is here as well.

In the October meeting, we did indeed present some conceptual plans and we did talk about some tilt-up precast concrete panels on part of the building. Since that point in time, we have looked at some value engineering on the building. The owner has expressed a need to provide a flexible and expandable facility. We have modified part of the building to an insulated metal building panel. I have the rendering of the building and some hand-outs I would like to hand out if you will let me at this point.

This is an exterior color rendering of the building and these are some hand-outs of the same thing. As soon as they have come around, I will try to explain to you what the parts of the building are. We tried to keep the building extremely simple in design because of the residential neighborhood it is going in. We tried to keep it very clean and very white. Envision deals with and hires people that have low vision, so we have tried to keep the building very clean and crisp.

The main architectural feature is this long, curving wall at the front of the building. I will tilt this around so you can see it. This long, very gently curving wall has a sloped top and it will be on a cast-in-place concrete. We have worked with the building contractor and have decided that casting the wall in place out of concrete is a better installation than a tilt-up concrete panel. So it will be cast-in-place concrete, and left as is. The back part of the building, this big part of the building is enclosed, it is the manufacturing and warehouse part of the building. It will be the insulated metal building panel. I have a sample of that panel, too. Here is a sample of that panel. You can see that it has insulation in it, about 2-1/2 inches of insulation that provides a lot better insulation value than a tilt-up, pre-cast concrete would.

We feel like that finish and color will maintain itself over years better than pre-cast will, and we also feel that it will provide flexibility in terms of expandability for the facility in the future. This happens to be the same material, or very similar to the material that was used on the Mennonite church up on west 21<sup>st</sup> Street, if you are familiar with that. We happen to have some photographs of that building."

**MCKAY** "Mr. Cavanaugh, is that the color you are going to use, the white or gray there?"

**CAVANAUGH** "Yes. We are going to try to get it as light as we can, yes. This is a photograph of that Mennonite church up on West 21<sup>st</sup> Street. Pass those around, if you would. Again, we think that for the economy of the facility and the long-term appearance of the facility, 95% of the population as they go by this building, would not be able to tell from streetside whether that was insulated metal panel or tilt-up pre-cast panel, we feel. And it does give the owner a lot of advantages in terms of expandability, energy conservation, and those kinds of issues.

We know that we have a requirement in the PUD to keep in mind the surrounding neighborhoods and we also understand a facility of size and nature, we can't make out of lap board and composition shingles, so we have tried to keep it as monolithic and clear-cut as we possibly can. We have some photographs that we took today, of the surrounding residential neighborhood, and I will pass those out so that you can see the neighborhood that we are developing in.

We have submitted the construction documents to Plan Review and have received a review letter from them and have resolved all of the items on that letter except for one, and that is the MAPC review. That is what we are here for today, to see if we can have you accept the materials of this building. We think it is going to be an outstanding addition to the Wichita community and to this neighborhood in particular. Is there anything else? I guess that is it."

**MCKAY** "Which is the Pawnee side and which is the Water side? Another question is are there going to be any roof-top units on top of the building that will be exposed or anything?"



**CAVANAUGH** "You are looking at this from the Water Street side. Okay? The Pawnee side is kind of back here on the other side in these trees."

**PLATT** "Where is the front door?"

**CAVANAUGH** "The front door, George, is right in here. Mechanical units, yes, there will be some, but we are going to locate those kind of in an 'around the corner' type of place so that they are not right out there in the front of the building. We are locating those around, kind of over on this roof area and also up on the main roof, but back away from that front wall, so you would have to be back quite a ways to see them."

**FRYE** "Will they have like a screening wall around them? I have seen it done that way, where it fits right into the décor."

**CAVANAUGH** "Actually, the parapets on this building will serve as a big screen wall. That big concrete wall out in front, and I think you have that elevation, if I am not mistaken, in your packet, that front elevation that you have. This is from the Water Street side, the east elevation in your packet. That long, sloping wall, if you can imagine, starts out at 16 feet on the south side and ends up 26 feet high on the north end. So that is going to screen just about everything up there."

**HENTZEN** "What is the square footage in the building?"

**CAVANAUGH** "It is about 78,000 square feet."

**HENTZEN** "Okay, what is the roof structure?"

**CAVANAUGH** "It is based on a pre-engineered steel building and it will have a standing seam metal roof. And again, the roof itself will be very hard to see from anywhere close to the building. You would have to be either in a plane or way off."

**HENTZEN** "Is the roof all drain one direction, or have internal drains?"

**CAVANAUGH** "We drain it all off, it does not have any internal drains at all. It all drains off to the perimeter of the building. We have some that goes to the north and makes its way to the east of Water Street. We also have some that comes to the south and makes its way down to the intersection of Pawnee and Water."

**GAROFALO** "How far back does the building set off of Water?"

**CAVANAUGH** "We have pushed it back....it sets about 100 feet plus or minus. We have pushed it back even further because of the trees on the east side of the building that we wanted to preserve. There were some very significant trees that we have pushed on further west to try to hang onto the trees."

**MCKAY** "How far are you off of Pawnee?"

**CAVANAUGH** "Probably a couple hundred feet. There is a big berm there, if you remember. There is a huge berm just on the north side of Pawnee that we are holding on to. So we are at least 200 feet from Pawnee. I am not sure if you will even be able to see the building from Pawnee."

**MCKAY** "Well, I was looking at the south elevation here, and it is pretty plain, but if it is behind the berm and all of that, that's all right."

**CAVANAUGH** "Yeah, and we have tried to situate it that way so that it does have very little impact on Pawnee."

**OSBORNE-HOWES** "I don't have a question for you, but I do want to check. Is what we are being asked to do today is just to approve the new material? And we are still leaving it up to Marvin and his staff? This is nice looking, but it is still not a complete drawing. But you've got the elevations, so what...?"

**KROUT** "We are asking you to approve the elevations."

**OSBORNE-HOWES** "Approve the elevations. And the material?"

**KROUT** "Well, that is inherent, yes. That is what you are approving."

**GAROFALO** "Are there any other questions? Okay. Do we need to hear from anyone else? Okay, thank you."

**FRYE** "Mr. Chair, what do we need, a motion to approve the elevation only?"

**GAROFALO** "Yes, and the materials."

**MOTION:** That the Metropolitan Area Planning Department approve the elevations and the materials.

**FRYE** moved, **WARREN** seconded the motion.

**OSBORNE-HOWES** "Do we know how staff feels about this?"

**KROUT** "We are supportive. I think you can build a metal building that looks like the Mennonite Church on 21<sup>st</sup> Street, or you can build a metal building that looks a whole lot different. But I think that a lot of attention has gone into the selection of the material and elevations and I think that it will be a positive addition."

**FRYE** "Mr. Chair, I made the motion because, of course, I am supportive, and I agree with what Marvin has said. Sometimes you can make something look pretty bad this way, but I think you can also make it look very good. I have a lot of faith and trust in this organization that is doing this, and that goes a long way with me. They are not going to put up anything that is not going to be compatible to the neighborhood. It will still be functional for the clients, and I support it 100%."

**VOTE ON THE MOTION:** The motion carried with 11 votes in favor. There was no opposition. Johnson abstained.

**CAVANAUGH** "Thank you, and thank you for your time."

**MCKAY** "I would just like to make a comment. I think this is a good infill project. I really do. That piece of ground sat there for years and this organization has taken it over, and it is going to be an asset to the neighborhood."

-----

Johnson returned to the chair.

10. **Case No. CU - 533** – John Mannebach (owner) requests a Conditional Use to allow a boarding, breeding and training kennel on 5 acres of land zoned Rural Residential, described as:

A tract of real estate described as: Beginning at a point 853.3 feet North of the Southeast corner of the East Half of the South Half of the Northeast Quarter of Section 17, Township 26 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence West 466.7 feet; thence North 466.7; thence East 466.7 feet; thence South 466.7 feet to the point of beginning.

**LISA VERTS**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant requests a Conditional Use to allow a boarding, breeding, and training kennel on 5 acres zoned "RR" Rural Residential in an area south of 61<sup>st</sup> Street North and west of 183<sup>rd</sup> Street West. There is an additional 75 acres to the north, south, and west of the application area that is under family ownership.

The applicant has stated that the kennel will be used for the training and boarding of dogs that may not be his own and the breeding of his own dogs. The applicant has in mind to build a facility that will house no more than 20 adult dogs initially; however, potential future expansion of the kennel facility may increase capacity to no more than 40 adult dogs. The applicant has also stated that all dogs will be kept indoors at night. He currently operates a hobby kennel with less than 10 of his own dogs.

The kennels to be built will be approximately 100 feet from 183<sup>rd</sup> Street West and approximately one-third mile from 61<sup>st</sup> Street North. The kennel is approximately 60 feet by 80 feet; indoor kennels measure 4 feet by 5 feet and outdoor runs measure 4 feet by 10 feet and have a secure top. The kennel area will be fenced with a 6-foot wood fence.

This area is within the Colwich "Zoning Area of Influence", and will be heard by Colwich's Planning Commission on August 23, 1999.

The Unified Zoning Code allows kennels (boarding, breeding, and training) as a Conditional Use in areas zoned "RR" Rural Residential, subject to the following supplementary use regulations:

1. **Minimum Lot Size:** The minimum lot size for hobby kennels shall be two acres, unless all animals are harbored indoors with no discernible noise or odor at the property line. The minimum lot size for boarding, breeding, and training kennels shall be five acres, unless all animals are harbored indoors with no discernible noise or odor at the property line.
2. **Setbacks:** Outside runs, holding pens or other open-air type enclosures and shelters shall be located behind the front yard setback line and no closer than 200 feet from a dwelling other than the owner's and no closer than 50 feet from adjoining property lines.
3. **Screening:** Screening shall be provided by a structure, solid or semi-solid fencing, landscape materials, earth berms or natural site features maintained for the purpose of concealing the view of the animals behind such fence, landscape materials, berm or natural site feature from activities on adjoining properties and along 183<sup>rd</sup> Street. If fencing is used, it must be between 4 and 8 feet in height. If fences over six feet in height, landscape materials or earth berms are used, a plan shall be submitted for approval to the Director of Planning and Zoning Administrator. Fences used for screening may have no more than five-percent open surface. Landscape materials must provide the desired screening effect within the first growing season following installation.

**CASE HISTORY:** None.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" – Agricultural Uses  
SOUTH: "RR" – Agricultural Uses  
EAST: "RR" – Agricultural Uses  
WEST: "RR" – Agricultural Uses

**PUBLIC SERVICES:** A septic lagoon serves the existing home and farm buildings. The home is served by a well, which will be used for the accessory structure. The site has access to 183<sup>rd</sup> Street West, a section line dirt road maintained by the township. Traffic counts are not available for this roadway.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area for agricultural uses. The "agricultural" designation is meant to accommodate agricultural operations and other uses common in rural areas that are no more offensive than normal agricultural uses. The Plan also states that commercial development in rural areas should be limited to activities that are agriculturally-oriented or provide necessary convenience services to residents in the immediate area. The Plan recommends that commercial uses be located adjacent to arterials or major thoroughfares, which provide needed ingress and egress, and that commercially generated traffic should not feed directly onto local residential streets.

**RECOMMENDATION:** Kennels have been controversial in several recent applications, primarily because of the noise of barking dogs. In this case, the owner is using his own property to substantially buffer his neighbors, who live 1,000 feet or more away. He is willing to limit the dogs to being indoors at night and he has indicated that his neighbors support this request. Therefore, based on the information available prior to the public hearing, planning staff recommends that the request for a boarding, breeding, and training kennel be APPROVED, subject to the following conditions:

- A. The owner or occupant of the application area shall comply with the rules and requirements of Chapter 5 (Animals) of the Sedgwick County Code and all state requirements.
- B. The property shall be developed in accordance with the site plan approved as part of the Conditional Use application.
- C. The kennel operator shall have on file proof of rabies vaccination by a licensed veterinarian and proof of identification and ownership for all dogs five months and older.
- D. Artificial lighting shall be provided in any indoor run for a minimum of 25 feet of candle illumination. Lighting shall be a minimum of 30 inches above the floor and uniformly distributed.
- E. Cleaning of boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions, and a "suitable method" of eliminating excess water from animal housing facilities shall be provided as determined by the Wichita-Sedgwick County Department of Community Health. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture. The indoor kennel facilities shall have fresh air ventilation providing a complete air change at a minimum of five- to six-minute intervals. Exhaust fans and vents or air conditioning shall be provided when the ambient temperature is 85 degrees F or higher.
- F. Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often necessary to maintain sanitary conditions.
- G. All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The boarding kennel shall be maintained in a sanitary manner as required by Chapter 14 of the Sedgwick County Code.
- H. The animals confined in the boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.
- I. The number of adult dogs authorized for boarding, training, and/or breeding, including the applicant's dogs, by virtue of this resolution shall not exceed 40 at any one time. Dogs shall be contained in an enclosed structure with no wall openings between dusk and dawn.
- J. The boarding kennel facility shall be open to the unannounced inspection by Sedgwick County Department of Code Enforcement personnel during reasonable daylight business hours to insure continued compliance with the above requirements.
- K. Any violation of the foregoing conditions shall render this Conditional Use Permit to be null and void.

The staff's recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The surrounding zoning is "RR" Rural Residential and the owner of the property occupies and/or farms the surrounding 75 acres to the north, west, and south. The surrounding land use is agricultural. The closest residence to the northwest is approximately 1700 feet away and to the southeast approximately 1400 feet away.

2. Suitability of the subject property for the uses to which it has already be restricted: The agricultural land use category has the intent of protecting agricultural resources. This district is meant to accommodate agricultural operations on substantial acreage. The category can allow other uses common in rural acres, which are no more offensive than normal agricultural uses. The combined acreage of the applicant is 80 acres.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use is required to meet all standards and conditions of the Wichita-Sedgwick County Department of Community Health. With the recommended conditions of approval, and the requirement that all animals shall be contained indoors from dusk to dawn, the proposed use should not impact surrounding properties any more than other types of animals, livestock, and agricultural operations that are classified as "agricultural" and permitted by right in areas zoned "RR" Rural Residential.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code allows kennels for boarding, breeding, and training with a Conditional Use permit in areas zoned "RR" Rural Residential and "SF-20" Single-Family Districts. The Comprehensive Plan, however, does not specifically address the siting for dog kennels. The kennel has the characteristics of a commercial operation, and the Plan recommends that commercial uses be located adjacent to arterials or major thoroughfares which provide needed ingress and egress, and that commercially-generated traffic should not feed directly onto local residential streets.
5. Impact of the proposed development on community facilities: The proposed use should have a minimal impact upon traffic in the area and municipal facilities are not necessary.

**VERTS** "The Colwich Planning Commission did hear this on Monday night and they did recommend approval unanimously. Are there any questions of staff?"

**HENTZEN** "Is that place anywhere near the high water we get out there in Colwich when we get a couple of inches of rain?"

**VERTS** "I wouldn't be able to answer that. Perhaps the applicant would be more aware of that."

**HENTZEN** "Because out along the Cowskin out here, we had to rescue a bunch of dogs and cats during this last flood on Halloween Day, and that is kind of where we are going to put that sewage plant, isn't it?"

**MCKAY** "No, it is north of there."

**HENTZEN** "It is north of there?"

**MCKAY** "That is north of the sewage plant."

**HENTZEN** "Oh, okay. I just asked because it could be a problem."

**VERTS** "I am not familiar with either one of those issues."

**MCKAY** "Marvin, when you guys went to Tulsa, is the area that Mitch was talking about that the Corps of Engineers might be coming in for because this is a source of part of the flooding area? I am not opposed to the Conditional Use, I just think this is one of the major areas."

**KROUT** "I am thinking it is maybe further north of this."

**MCKAY** "It is 600 to 700 acres of ground."

**KROUT** "Yes, it is about a section, a whole mile section."

**JOHNSON** "Are there any other questions of staff? Thank you. Applicant or agent."

**JOHN MANNEBACH** "I live at this residence, 5959 North 183<sup>rd</sup> Street West. This picture here, as far as flooding goes in this area, we have lived here all of our life and the water has never gotten past this area right here in the biggest flood we have had in 30 years of history. Well, longer than that. My Dad can remember that it never got past this area. The facility, as you can see, on the plans, we had a permit for one day and started building the facility. This is the end of it right here, which is a good 15 feet, at least, from where that water came up to. The building that we are planning on building is also going to be raised an additional probably 18 inches on the far south end of the building, so chances of water getting up into the facility is really slim. I don't think it will ever be a problem, even with the adding on of the extra 20 pens, I still don't feel that it is ever going to get that close. If it does, the whole town of Colwich is going to have a big problem.

Also, right now they are building a new bridge on 183<sup>rd</sup> Street, which is about ¾ of a mile down the road from us. They have opened it up a lot at the point where the water got up to where I was showing you before, it also broke through the railroad tracks, which gave relief to the water and pushed it on further. So even if it does get that high again, it is going to go over the railroad tracks and give us relief on our farms. We have never had any cases of being in trouble with water, and I don't see it happening now. Are there any other questions or concerns?"

**JOHNSON** "Are there any questions of the applicant?"

**WHEELER** "Are you in agreement with all of the staff comments?"

**MANNEBACH** "Yes. I am going through a lot of extras. I have done a lot of research on these buildings to make them comfortable for the animals. I am going beyond the recommendations of what you are supposed to have on these facilities. I am adding 18" walls in between each kennel to prevent the dogs from being uncomfortable from the dog next door, and also getting waste materials in from pen to pen. I am putting tops on the kennels to prevent escapes and an additional 6-foot tall wood fence around it, in case one of them does chew through the fence or something, they would have to crawl over a 6-foot wooden fence.

Indoors I am using radiant heat for the heating and central air for the air conditioning. I felt like the radiant heat was a more comfortable way for the dogs. It is putting the heat right in the location where they are going to be staying and we felt like that was a better way of heating it, and more comfortable for the dogs. So, I am doing what I can to make it good for them. The indoor facilities will even have taller barriers in between the dogs so they will be comfortable if they happen to have one next to them, they can sleep there without having to be bothered by the other dogs."

**OSBORNE-HOWES** "On staff recommendation No. I, 'dogs should be contained in an enclosed structure with no wall openings between dusk and dawn. In the summer, that sounds good, but I am thinking that in the winter that puts them inside at about 5:30 or 6:00."

**MANNEBACH** "Yes, they will be in earlier in the winter time. That is correct."

**OSBORNE-HOWES** "So you are okay with that?"

**MANNEBACH** "Yeah, I think it is okay for the dogs in the wintertime. After dark, it gets really cool. From watching my own dogs and experiencing their habits, more times than not, when it gets dark, the animals are more comfortable indoors. That is where their beds are and that is where the heat is. Even during the daytime a lot, they will be more comfortable indoors. I really don't think it is going to be an uncomfortable situation. They will be just as happy inside. They will have a run that is 4 foot wide by 5 foot deep, so they will have a lot of room indoors. I don't think that that should be a problem."

**JOHNSON** "Are there any other questions? Thank you. Is there anyone else to speak in favor of this item? Is there anyone here to speak in opposition? Seeing none, I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding zoning is "RR" Rural Residential and the owner of the property occupies and/or farms the surrounding 75 acres to the north, west, and south. The surrounding land use is agricultural. The closest residence to the northwest is approximately 1700 feet away and to the southeast approximately 1400 feet away. Suitability of the subject property for the uses to which it has already be restricted: The agricultural land use category has the intent of protecting agricultural resources. This district is meant to accommodate agricultural operations on substantial acreage. The category can allow other uses common in rural acres, which are no more offensive than normal agricultural uses. The combined acreage of the applicant is 80 acres. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use is required to meet all standards and conditions of the Wichita-Sedgwick County Department of Community Health. With the recommended conditions of approval, and the requirement that all animals shall be contained indoors from dusk to dawn, the proposed use should not impact surrounding properties any more than other types of animals, livestock, and agricultural operations that are classified as "agricultural" and permitted by right in areas zoned "RR" Rural Residential. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code allows kennels for boarding, breeding, and training with a Conditional Use permit in areas zoned "RR" Rural Residential and "SF-20" Single-Family Districts. The Comprehensive Plan, however, does not specifically address the siting for dog kennels. The kennel has the characteristics of a commercial operation, and the Plan recommends that commercial uses be located adjacent to arterials or major thoroughfares which provide needed ingress and egress, and that commercially-generated traffic should not feed directly onto local residential streets. Impact of the proposed development on community facilities: The proposed use should have a minimal impact upon traffic in the area and municipal facilities are not necessary.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The owner or occupant of the application area shall comply with the rules and requirements of Chapter 5 (Animals) of the Sedgwick County Code and all state requirements.
2. The property shall be developed in accordance with the site plan approved as part of the Conditional Use application.
3. The kennel operator shall have on file proof of rabies vaccination by a licensed veterinarian and proof of identification and ownership for all dogs five months and older.

4. Artificial lighting shall be provided in any indoor run for a minimum of 25 feet of candle illumination. Lighting shall be a minimum of 30 inches above the floor and uniformly distributed.
5. Cleaning of boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions, and a "suitable method" of eliminating excess water from animal housing facilities shall be provided as determined by the Wichita-Sedgwick County Department of Community Health. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture. The indoor kennel facilities shall have fresh air ventilation providing a complete air change at a minimum of five- to six-minute intervals. Exhaust fans and vents or air conditioning shall be provided when the ambient temperature is 85 degrees F or higher.
6. Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often necessary to maintain sanitary conditions.
7. All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The boarding kennel shall be maintained in a sanitary manner as required by Chapter 14 of the Sedgwick County Code.
8. The animals confined in the boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.
9. The number of adult dogs authorized for boarding, training, and/or breeding, including the applicant's dogs, by virtue of this resolution shall not exceed 40 at any one time. Dogs shall be contained in an enclosed structure with no wall openings between dusk and dawn.
10. The boarding kennel facility shall be open to the unannounced inspection by Sedgwick County Department of Code Enforcement personnel during reasonable daylight business hours to insure continued compliance with the above requirements.
11. Any violation of the foregoing conditions shall render this Conditional Use Permit to be null and void.

**FRYE** moved, **WHEELER** seconded the motion, and it carried unanimously (12-0).

-----

11. **A 99-24** – Annexation review for consistency with the Comprehensive Plan.  
The City of Wichita seeks the annexation of properties, generally located at 45<sup>th</sup> Street North and Webb Road.
12. **DR 99-6** - Annexation review for consistency with the Comprehensive Plan.  
The City of Sedgwick requests the annexation of lands generally located south of 125<sup>th</sup> Street North, east and west of 71<sup>st</sup> Street West. Resolution #07-07-99

**MCKAY** "I received a phone call from somebody on an annexation. I don't know if it was these or not, but I told them to call the staff."

**OSBORNE-HOWES** "I got a call on this one."

**KROUT** "And I got a call on this one."

**HENTZEN** "I got a call. Her name was Adams."

**KROUT** "Is Mr. or Mrs. Adams here? We have two requests for unilateral annexations. For the newer Commissioners, let me try to explain what your role is here. I did try to explain to the person who called me.

A unilateral annexation is a process whereby cities in Kansas can annex eligible properties into the city limits even when the owners are not requesting to be annexed. The State statutes dictate what the eligibility requirements are. If it is over 21 acres and it is an agricultural use, it cannot be annexed unless it is requested. If it is unplatted property and it doesn't touch the City in certain ways, then it can't be annexed. If it is platted as most of this area is, at 45<sup>th</sup> and Webb Road, which is the area we are talking about now, the Sun-Air Addition area, which is north and east of Willowbend, the area is generally available for annexation. Although, as we showed on the service plan, some of these properties are unplatted and will not be eligible until after a first step is accomplished.

The City has been active in all directions of the city limits in expanding its boundaries, and is doing that because the City Fathers believe that an expanding city means a healthy city in terms of tax base and the ability to provide better services and grow, and accommodate the citizens, and collect taxes. They also feel that people who live at the edge of the City and adjacent to neighbors who are living in the City of Wichita and are paying higher taxes, that that is not the most equitable situation, that people ought to pay the same for the same kinds of services that they get. A lot of people who live just at the edge of Wichita are enjoying many of the services that are being supplied by the City of Wichita.

Also, these are areas that are in the growth area. We attached a map that shows that these areas are in the expected growth area of the community. Wichita expects to grow even north of 45<sup>th</sup> Street in the future, and the idea of leaving islands of land that are

surrounded by the city limits in the future leads to service problems between the City and County staffs. It is the sort of thing that especially emergency departments and other departments find to be frustrating, and would like to have the boundaries as smooth and regular as possible.

Those are some of the reasons why the City is involved in annexation, and as we looked and developed a work plan for this year, of all of the eligible areas to be annexed, this Sun-Air Addition was one of the areas that was eligible. So we did prepare a service plan, and the City Council did pass a resolution that set a hearing date of October 12 to consider this. That has to be in the evening, by the way, when you asked about evening meetings. They are required to have meetings by state law that are a convenient time and place for people. So this is going to be an evening meeting out at Heartspring on 29<sup>th</sup> Street, which is a nearby location.

The staff also has, a meeting scheduled for September 7 with interested residents for all departments to come out, not a public hearing, but an opportunity, kind of like a pre-application meeting. On a zoning case, it would be kind of a pre-meeting to talk to staff departments and find out what the effects of annexation will be. The purpose of the Planning Commission is set out in the state law, and is more limited. It is not really--although you are free to advise the City Council anytime, as to whether or not you think the annexation is a good idea or not,--but your job, as the Planning Commission, is limited by state law officially to looking at whether or not this proposed annexation is compatible with the Comprehensive Plan.

If you look to the Comprehensive Plan, then you see that this area is in the planned Wichita growth area, so we don't believe that you really have much choice except to forward that finding to the City Council, that this is compatible with the Comprehensive Plan because the 45<sup>th</sup> and Webb Road area is part of the growth area in the adopted Comprehensive Plan. If you have any other comments that you want to forward to the City Council, you are free to do that.

We usually don't have speakers on these items, but I believe that there may be some people here who want to talk to you about this area."

**WARREN** "Does this require a motion?"

**KROUT** "It should require a motion to find that the proposed annexation is consistent with the Comprehensive Plan."

**JOHNSON** "Is there anybody here to speak on Items 11 or 12, the annexations?"

**DAVID MOLLHAGEN** "I live at 4341 North Cypress, which is basically in the middle of this area. We are not in agreement with the staff recommendation, of course. We are requesting not to be annexed. There are several different reasons. We do basically like to be left alone out there. Some of these that we have talked about in our meeting that we had at the church this week is that we don't feel that this area is primary to be annexed until the area north of us is to be included with that. Squaring off the map in this area doesn't really make too much sense to us when you have such a jagged edge. Also, when you continue over on Webb Road as far as the City limits goes that way.

When we are talking about services, going through the items of what the services are that are going to be done and financed, we found out that the operating department that is currently delivering these services will fund them upon annexation. No change. We also find that there is going to be some zoning changes from the 'SF-20' to 'SF-6'. There are some changes in that, yes. This annexation is going to be done in three different phases, just so that it can 'accommodate what the state requires'. It is not all being done at one time and is done in several different puzzled areas. I think the staff will be able to show you a little bit better about why they are having to deal with what they are wanting to see about doing.

The City, in their Capital Improvement Program (C.I.P.) states that there are no projects affecting this area. So we are going to be paying taxes for no improvement, no anything. That is what we are kind of wondering about. There are no plans to pave the street, and that is, of course 100% of the property owners that would have to pay for that. There are no C.I.P. projects to extend the lines further for the main water line, and if the water lines are to be put in again, that is 100% of the property owners. We do have water, yes. There are two four inch lines.

Sewer services to be provided by petition only. There are not current plans for the annexed area to be serviced. I am running across a lot of 'no changes'; 'no changes'; 'no changes'. So, let's just see about keeping it at no changes. That is what we want. We understand that, yes, there are going to be public hearings. We understand that yes, there are going to be different forms to be had, but we are just wanting to see about getting notification to people that there are a lot of us that like our area and want to keep it in the County.

This is one I didn't understand and I would like a little bit of explanation. I didn't have time to talk to staff about the stormwater utility, what the impervious areas would and would not cover. We have started a few petitions, but we don't have those ready for you guys yet, but we will be back. We are basically giving you notice that we don't any changes, we don't want to be annexed. Thank you."

**JOHNSON** "Are there any questions? Thank you. Is there anyone else to speak? Please come forward."

**KEITH BEHAVEN**, I want to address Item No. 12 (DR 99-6). I am the Mayor of the City of Sedgwick. I want to thank you for your time. Yes, we intend to do some annexations. I assume that most of you are aware that we set right on the County line. Basically, the area that we are doing some annexation in is in both counties, but I know that you are only interested in that area that is in the Sedgwick County area.

(Indicating) This map depicts the current lines of the city areas. This area right here and this one, all of this area, this area right here, this one, all of this area, and from right in here. There are about three, no four homes that are right through here, and three

homes right along Ridge Road. Apparently, this far east house does not have city utilities. The other three houses do have city utilities. These three houses over here also have city utilities, and they are outside of the corporate city limits. In the process, we are going to annex this into Harvey County also, the cemetery here and this little area here. This here is already in the corporate limits here, and this here. We feel that these houses over here have utilized our services for years and years and have not paid their fair share, so consequently that is why we are trying to incorporate that.

None of the areas exceed the 21 acre limit that we are annexing. We are doing it on the annexation by the unilateral effort to the City. Basically, I came just to answer any questions that you might have in regards to this. I don't know what your recommendation was at this point."

**MCKAY** "Where is 125<sup>th</sup> Street?"

**BEHAVEN** "Here is 125<sup>th</sup> Street right here. This is Ridge Road."

**MCKAY** "Okay, so show us, in Sedgwick County, what you are wanting to annex."

**BEHAVEN** "Okay. Here they are, right here. See the black areas? In Sedgwick County, it is these right here and these right here."

**MCKAY** "So that is all we are concerned about, not all of this other stuff."

**BEHAVEN** "That's right. The red area is what is already in the corporate limits."

**MCKAY** "Okay. I didn't know where 125<sup>th</sup> Street was."

**JOHNSON** "Okay. Are there any other questions? Thank you. Is there anyone here who wants to speak on Items 11 or 12?"

**DARRELL SOOTER** "I would like to speak on Item 11. I live at 4201 Lyndon Drive, which in the proposed annexation area is down in the southwest corner. My concern, because of property that has been zoned by the City of Wichita in the past, has caused me flooding. It still causes me flooding. Comatara was allowed to put a railroad track from 45<sup>th</sup> to 37<sup>th</sup> Street, which acts as a dam. It funnels all of the water from half a mile from the east, from the north and to the south down on my property when we get a hard rain. I have as much as four inches in my garage every time we have a hard rain, and it is an attached garage.

The natural drainage is across the south edge of my property. The Township straightened out a natural ditch, but I think when they found out that we were being considered for annexation, they abandoned the project and left it in a condition where I can't even get in there to mow the weeds. I am very concerned about the drainage situation in that area, because if they do anything to open up ditches, it is going to throw that much more water down on me, that much quicker. The railroad does not bother to maintain their right-of-way. It is high weeds, and that slows the water down. They have an approximately 4 foot high by about an 8-foot wide culvert underneath the track. It does not handle that water. I have seen clear up to the top of that culvert. I have had four foot of water in the backside of my lot. So my concern is drainage. I don't know what is going to happen. Thank you."

**JOHNSON** "Are there any questions? Thank you. Is there anyone else who wants to speak on these items? All right, I will bring this back to the Commission."

**MCKAY** "Do we just recommend, or what do you want here? We don't have to agree with this, do we?"

**FRYE** "Just to say if it is compatible with the Comprehensive Plan."

**KROUT** "That is right. You are free to make recommendations either to the City of Sedgwick or more to the City of Wichita. They are not binding in any way. Your job by State statute is just limited to deciding as to whether or not these annexations are consistent with the general Plan and they are just in the form of recommendations. Even if you find that they are not consistent with the Comprehensive Plan, you have gone through the process and informed them, and that is what the State statute is all about. If you have any comments about this beyond that, you are welcome to provide them. I will say just a couple of things about drainage.

Before that last gentleman leaves if I could get his name and telephone number, we will have the stormwater utility people get out and take a look at your property before these upcoming meetings so that they will be prepared to tell you what they can do. There was another question asked, and in answer to that, the City does have a Stormwater Utility fee that goes to residents and is based on the average impervious surface of the house and lot and garage and paving on the lot. It amounts to \$1.21 per month. It is on your water bill if you have a City water bill. It is mailed out once or twice a year, if you don't have a City water bill. But that goes to help fund the Stormwater Management Division of Public Works, and they do have some money to do minor drainage improvements, maybe of the kind that you are talking about, so I am sure that they will be able to send someone out to meet with you and to take a look at your problem and let you know when they will be able to schedule some improvements.

If the Township had started something and then stopped it, it sounds like something that maybe the City can help you take care of."

**SOOTER** (From the audience) "Right now, the drainage goes into an open ditch in Willowbend, which they tunnel to their ponds on the golf course."

**KROUT** "And there will be further opportunities to talk more with department staff and with the City Council in upcoming meetings, but I think we can get a jump on this one drainage issue this afternoon."



**MOTION:** That the Planning Commission recommend to the governing body that the annexation proposed in A 99-24 is consistent with the Comprehensive Plan.

**FRYE** moved, **WARREN** seconded the motion, and it carried unanimously (12-0).

**MOTION:** That the Planning Commission recommend to the governing body that the annexation proposed in DR 99-6 is consistent with the Comprehensive Plan.

**WARREN** moved, **FRYE** seconded the motion, and it carried unanimously (12-0).

-----

**13b.        Other Matters**

**Transportation Enhancement Funds**

**JAMSHEED MEHTA**, Planning Staff, "Each year, we make applications to KDOT for what is called Transportation Enhancement Funds. They are a program of what was previously called ISTEA and is now called T-21.

In a very brief summary, I will just mention that there are three categories within enhancements that we can apply for; bicycle and pedestrian trails; Historic preservation; and scenic and environmental projects. These three categories that we are eligible for and you, as the Planning Commission, which is also the MPO, would be officially submitting these.

Today, all I am going to do is to briefly go over some of the projects that we are looking at seriously at this time, but I will bring it back to you formally for resolution on September 16 when you next meet. When you do that, that resolution will take these projects, most of them to the City Council, but maybe one or two to the County Commission so that they can include it as part of their agenda items and provide the corresponding match that is needed to fund these projects.

I will briefly go down this list that I have provided you. The first four projects are what was not funded last year when we made an application. The landscaping and fencing at Kellogg and Hillside will be re-submitted. It was not funded; not because it wasn't a good idea, but in fact the State ran out of moneys on last years' submissions. There was only \$14 million state wide. This year, in fact, it is only \$7 million, so we will be submitting a whole lot of projects. We don't expect all of them to get funded, but if they don't, and if they are still good projects, we will keep re-submitting these.

A project from the County is the next one. It is called Pawnee from Woodlawn to Webb Road. This was not funded. We will re-submit that one. Then there is 21<sup>st</sup> Street North from Ridge Road to Maize Road. We have submitted this one about four times now. Maybe the fifth time will be a charm or something. The idea here is to connect the West Side trail to the other trail that already exists. It is a bicycle lane on both sides of 21<sup>st</sup> Street, which in fact, goes all the way out to Cheney Lake. The idea would be to complete this two mile missing link which would provide continuity from down center city going all the way out to Cheney Lake. Hopefully KDOT will recognize the merits of these two miles.

The fourth one down on your list is the Wichita Wayfinding Sign System, something that we had submitted for last year. It is a project that the City has hired architects to draft and design. The concept is to divide the central business area into about four districts downtown; the Riverside museums, the Oldtown district and the government districts, and have signage systems which lead vehicular traffic from the interstate highways and from Kellogg, going to these various areas of the central area to lead you to the appropriate parking areas. We had some problems trying to convince the state that an element of art would be more attractive than the typical brown signs that you see on the highway, which would point you to areas of interest and attractions, and maybe this time we can try to convince them that accepting unique features rather than uniform features would enhance the area.

Those four projects were what were submitted last year, but did not make it to funding. There were a bunch of other projects that did make it, and if you are interested, I could go down that list as well.

Fifth on your list is the North Pathway Connection I-135. The idea here is to connect McAdams Park (17<sup>th</sup> Street North) to Grove Park on the north side. This completes what is called the K-96 linkage to the I-135 bicycle trail system. It has a very good chance of being approved because it actually does complete a significant section of the Bike Plan. "

**MCKAY** "I want to ask a question while we are here. On the bike path, how far north does this go now, just to 17<sup>th</sup> Street, just north of McAdams Park?"

**MEHTA** "Exactly. It terminates at McAdams Park, close to 17<sup>th</sup> Street."

**MCKAY** "That is on the west side....will the other one go on the east side of the Canal Route and all the way up to that lake?"

**MEHTA** "That was the option that we presented to the CPOs, and it is our recommendation at this time. It does go through more review. For example, it goes to the Technical Advisory Committee on September 7. Those little technical details we can still smooth out, but right now, our feeling is to take it over to the neighborhood side rather than to the refinery side of the highway."

**MCKAY** "I understand that. What are going to do with all of the railroad tracks up there just south of this park?"

**MEHTA** "We won't go across the railroad tracks. We will stay south of the tracks, in fact south of the creek, so we don't have to bridge it. There is another park plan, unassociated with this, where there may be a connection to connect Grove Park to that K-96 fishing pond and make it a fishing pond in an urban setting."

**MCKAY** "I thought that was what you were doing."

**MEHTA** "We keep mentioning that, but it is not a application that is part of this enhancement package."

Now, the next four on the page under the caption South Pathway Connections. We are trying to connect three pathway systems; the Arkansas River Bike Path system; the I-135 Trail system; and the Gypsum Creek system."

**GAROFALO** "Will you point that out?"

**MEHTA** (Indicating) "This is the Gypsum Creek system. It is also along the Kansas Turnpike. It is built, right now, about half way. The next half is going to be built some time this year or early next year."

**MCKAY** "I'm not going to approve that unless you put a fence along the one that is already there. Marvin and I have been talking about that for two years."

**KROUT** "That's right. That's all right, John is not part of the Transportation Coordinating Committee, but that is a different subject."

**MCKAY** "Yeah, but I own the ground down there that you would need to put a fence up!"

(Laughter here)

**MEHTA** "The idea would be to connect the Gypsum Creek Trail to the I-135 Trail, which terminates just north of Pawnee right now. The third trail would be the Arkansas River Trail, which terminates at approximately Garvey Park or YMCA/Garvey Park. Those three end points need to be connected, and we have at least four projects, possibly even five ways to connect them and make it interconnected between these three larger bike systems, at the same time keeping our options open for a future application, not for now, to extend it further south to connect with the trails in Derby."

**GAROFALO** "This proposal is from Galena...run your finger along there where it would go. "

**MEHTA** "Okay, on the Arkansas River system, it would follow the north bank of the river, across at Hydraulic, and then it would enter the Chapin Park, yet to be developed. Then it would be on the south side of the river, it will go underneath I-135, come up to the MacArthur Road bridge. South on MacArthur Road and connect into all of the other paths, which would come there."

On the path coming down from I-135, if you come up to where it is right now, at approximately Wassall Street, there is a pedestrian bridge going over the highway. It will cross over and continue along K-15 on the east side, all the way to approximately where this path would meet MacArthur Road. From Wassall, the pedestrian bridge area, the intent is to connect it from here to where the Gypsum Creek or the Kansas Turnpike Trail comes up to at least this point, which is George Washington Boulevard, right there."

How we do that is a little bit tricky. In part, we are going to follow a residential street called Range instead of following Wassall because some time back, not too long ago, Wassall was vacated and given over to Joyland Amusement Park. It is a problem trying to get the easement from them to make this connection happen. So we have to go through some residential streets, come out and then be on the Gypsum Creek path that eventually goes through here. We follow one side or the other side of Gypsum Creek to connect at this point."

From George Washington Boulevard instead of following the east side of the Turnpike, as it goes into Boeing, it would be on the west side, would come all the way around and meet all of the other trails at MacArthur Road. So somewhere in this vicinity we have three trails merging altogether. The way we have broken it down in this sheet is four applications. It is possible for purposes of submitting this project to the State, we may break it down into five or six components. That has to do with our strategy to make sure we get the expensive projects broken down because if some of them require shelving the banks slopes of the river channels, and those are expensive segments, so maybe we can identify those separate projects and it is linked to the other projects; therefore we hope that we can get the full approval anyway."

Now, if you will turn the page over, you will see the North Riverside Path and the Riverside Park System. Those two projects...the first one, North Riverside goes from 21<sup>st</sup> to 13<sup>th</sup> Street. The original application came from the North Riverside Neighborhood Association. What they wanted to do was exclusively link Minisa Park at 13<sup>th</sup> along the Little Arkansas River to south Woodland Park, just around 17<sup>th</sup> or 18<sup>th</sup> Street. By simply linking two parks which aren't regional parks either. (Indicating) These are the two parks that I am talking about right here."

I don't think the State would be interested in doing something that would sound more like an internal park improvement. We are asking them to work with us and extend that project so it will cross over to the east bank of the Little Arkansas River at about 17<sup>th</sup> or 18<sup>th</sup> Street, where the bridge is, go along the St. Patrick's parish, come up to north Woodlawn Park, which has access to 21<sup>st</sup> Street, and then connect 21<sup>st</sup> Street, which is a wider sidewalk, up to Amidon. That is how we link the commercial community around 21<sup>st</sup> and Amidon to the neighborhood areas."

Now, south of 13<sup>th</sup> is the other project, second on this list, the Riverside Park System. Back in 1992 sometime, the Park Department had the consultant work on the Riverside Park System Master Plan, which is basically connecting all of the parks and the open

spaces you have along one or both sides of the Little Arkansas River from 13<sup>th</sup> down to approximately Central. This would be an opportunity to link this project to the one that the neighborhood is asking for so that the State looks upon it as a connection of our regional bike plan system.

The last two projects on the second page here, the River Bank Improvements. On the East Bank of the Arkansas River, from Central to Seneca, from Central, which is right there, to Seneca which is about right here. The idea would be to take that component off a project that has yet to be made more official. It will be part of the Central River Bank Improvements project in the Core area. It is a \$6 million project, or even more. We will take the bicycle trail component out and submit it as an enhancement project to the State.

Pretty much the same concept, the East Bank of the River from Seneca to Douglas would be the same idea. We would take that part of the total \$6 million project, which is bike trail enhancements and convert it into a federal funding project. It will relieve so many dollars out of the \$6 million if we can get federal funding for that."

**MCKAY** "I thought there was already a park path from 13<sup>th</sup> Street down to Central Avenue and Sims Park along the Big Arkansas River."

**MEHTA** "From 13<sup>th</sup> to Central along the Big Arkansas River, yes. That is already done. This is not that. From Central to Seneca is a path system; we will be doing an enhancement of that path system so that it is part of the larger river bank improvement, the \$6 million CIP that has been recently approved.

Now, where does it go from here. At this time, there is no need for any recommendations or action. We take it to the Technical Advisory Committee and the Coordinating Committee on September 7. We bring it back to you on September 16, with a Resolution. Then it is ready to go to the governing bodies and on to KDOT as applications."

**GAROFALO** "Do you prioritize these?"

**MEHTA** "No. We have not been prioritizing them for some time, having realized that as the MPO, you also receive projects from smaller communities within Sedgwick County. Therefore, we may be in a situation of dealing with the City of Wichita projects and the City of Derby projects, or the City of Mulvane, any of those. At this time we haven't received those, but they can still submit something. We wouldn't be wanting you to be in a situation of making those calls, or us, for that matter. So we just submit all of them together.

The State doesn't usually take our recommendations seriously. They do go down their own ranking system and that is what we have been noticing in the past. We have submitted our top five, in those days when we did do rankings, we might get the third or the fifth ranked project and not the first and second ranked."

**GAROFALO** "How much did we get last year?"

**MEHTA** "Last year was a good one. Out of the \$14 million state-wide competitive pool, we got in the range of \$4 million. No, I take that back. We applied for \$4 million and got \$2 million."

**JOHNSON** "Are there any other questions?"

**MCKAY** "In all sincerity, what I was kidding with Marvin about, we have a project on the Chisholm Creek where they opened the pathway up, we have had nothing but vandalism and crime since that happened. There are two reasons. One, it is back in the back where it is not lighted and there is no fencing. You used to not be able to get in there, and now you can drive a car back there. I have talked to Marvin about it. The City owns a big chunk of that ground. Someday I am afraid they are going to find a body back in there because it is really isolated back there. If you are driving along the Turnpike or going along the Chisholm Creek, there is no lighting back there except for the lights from the driving range, and it is in behind the shopping center. In areas like that, I think they ought to consider lighting or fencing or something to protect the property owners around it."

**KROUT** "Are you continuing to have problems?"

**MCKAY** "Yeah, and I think if you will check with the City that they are having problems because they own a bigger share of that than we do. All they are using that big piece of ground for, that 30 acres, is for storage, because they have abandoned the sewer project. I'll bet you would find out that they are having problems back in there. We run about one car a week off of there. Not motorcycles, not bikes, but cars, off of that bike path.

They have a direct access from Harry Street to Woodlawn along that Chisholm Creek and that is about a mile."

**KROUT** "Are there any barriers or anything?"

**MCKAY** "No. Well, you could put barriers so just bikes could go through, I would imagine. But see, the City has a chain gate there so they can get in and out to get to their storage area."

**MEHTA** "In some of these projects, we do make a provision for some kind of fencing. In most cases, it is fence that runs along the trail, adjacent to the property. In some other situations, it gets difficult to do that because it is a side property line and not fronting the trail. We cannot ask the State to put fencing on all three or four sides."

**MCKAY** "I am not saying in all cases to do that, but in this particular almost mile, we are just asking for problems. Our vandalism and theft has gone up three fold since that has been put in there, in the last year and a half. It just opens it up to anybody that wants to come in there, and after dark you can't even see anybody back there."

**WHEELER** "What kind of property do you have, John, that backs up to that? Is it an office?"

**MCKAY** "You know where the golf course is at Woodlawn and Harry, and the driving range? We have 27 acres of ground and the City owns 30 acres just to the east of us, but because of the driving range and because of the shopping center, they have taken along the Gypsum Creek and put in a bike path. Well, there is no lighting, no fencing nor anything else, and you can drive a car back there, just plain and simple. It is a strip center and the City owns everything behind it and it is just dark. It is just black there. There are probably other areas along this bike path that needs something similar. Once they are opened up to the public....."

**JOHNSON** "Are there any other questions. Thank you. We don't have to make a motion on this, so we will go on to the next item."

-----

**KROUT** "Before John (Frye) leaves, we want to say goodbye, and he is about to leave, so let's do it."

**FRYE** "Do you have another item or two? I am going to leave in a minute. I just want to tell everyone that I have enjoyed my last 8 years. It has been a great time, a great ride. I won't miss the long meetings, but I will meet the association that I had with all of you. I think you are fine people, and I have a great deal of respect for all of you. Marvin and his staff has just been super; I am sure we will cross each other's paths in the future. There needs to be change from time to time to give a different perspective, and that is what it is all about, and when one door closes, another one opens. We will see you all later."

**WARREN** "As far as the Subdivision Committee, we are going to miss this guy."

**WHEELER** "I would like to say that I have really enjoyed serving with you, John."

**FRYE** "Thank you. It has been great. You all have a good one, and I will think about you along about 5:00 on Thursday afternoons."

**GAROFALO** "Come up once in a while."

**FRYE** "One day, there may be an issue and I will be right there in front of you, talking to you. We'll see you."

Frye left the meeting at 4:40 p.m.

**KROUT** "Comprehensive Plan Committees, Chairman Johnson has provided you with a list of Committee members and we will go with that unless there are any strong objections. We would like to set up back to back meetings next Thursday afternoon, that is a free Thursday, both from Subdivision and Planning Commission, but we need to begin meeting on a regular basis to get through the Comprehensive Plan issues.

We are preparing a sort of up-date of the goals and objectives that are in the Plan, and will mail that out to you tomorrow. We will have one of the committees meeting from 1:00 to 3:00, and the other committee meeting from 3:00 to 5:00. At those meetings, we will work with you to schedule the rest of the meetings through September.

The general concept is one committee dealing with the land use goals and strategies, and the other committee dealing with the other issues in the Comprehensive Plan while the Transportation people are running their model and doing their thing. Hopefully, by the time those two committees are done with their work, over the next 4 to 5 weeks, we can get back together and discuss transportation and discuss what the two committees have done in the month of October and try to pull the whole thing together by that time. That is the general plan, but we will send out a notice to you tomorrow that will schedule the first meeting for next Thursday afternoon, so on that free Thursday you have been counting on, we're hoping you can take a couple of hours out."

**MCKAY** "Will the two new Commissioners be in on this?"

**KROUT** "We will invite the two new Commissioners because they both will have been sworn in. I met Harold Warner yesterday, he has been sworn in, and James Barfield is scheduled to be sworn in at next Wednesday's meeting. So the following day he will officially be a member."

**WARREN** "How is that going to affect Subdivision Committee?"

**KROUT** "The Subdivision Committee meeting is September 9. That is why I say that the September 2 meeting, we will have to schedule around Subdivision in the future, so it won't be able to meet from 1:00 to 3:00 like this first one."

**WARREN** "We don't have one next Thursday, right?"

**KROUT** "Right. There is no Subdivision meeting or Planning Commission meeting next Thursday. September 9 is the Subdivision Committee and September 16 is your next Planning Commission meeting.

We will send out the notices to you. I do want to say that on September 16, plan to come 15 minutes earlier than 1:30 so that we can deal with the case that we had today that we deferred for two weeks. That is the mobile home case on MacArthur Road. Also, plan, if you can, and we will order pizza for you, to come to stay from 5:00 to 7:00 p.m. on that afternoon. From 5:00 to 7:00, it will be a workshop that will be put on by the new consultant who has been hired by both the City and the County to do the Wireless Master Plan. This is the study of towers and telecommunications. This is, by the way, the same consultant that some of you may have attended a workshop with almost 3 years ago now. We brought him in to do a workshop on towers and telecommunications. He has been hired by the City and County to do this study and to kick off that study, he is going to do a workshop. We will invite all of the providers, along with other interested people to attend that workshop from 5:00 to 7:00 on the 16th. There will be pizza for the Planning Commission."

**MCKAY** "I have one small matter. Are we going to elect a new Chair and Vice Chair on the 16<sup>th</sup>?"

**KROUT** "Yes. That is the other thing I was going to say. On the 16<sup>th</sup>, that will be the first item of business. "

**MCKAY** "And we are supposed to be here at what time?"

**KROUT** "At 1:15. We will try to take care of that and the deferred item before 1:30 because we have already advertised the zoning hearings to begin at 1:30."

**WARREN** "On September 16, we will have a full board of Commissioners?"

**KROUT** "Right. That will be the first regular meeting with the two new Commissioners. We are going to do their orientation next week.

-----  
**KROUT** "The last thing is to go back and see if you are prepared to talk any more about the District Advisory Board concept. We kind of left that in the middle of the discussion."

**MCKAY** "I would like to make a comment. I think the whole idea that the City Council came down with of the combination of a lot of complaints about the CPOs and their independence of not really acting in the behalf of the people and your concept of the meeting with the neighborhood prior to, on a lot of these different things. I agree that they are not blending together yet, and I don't know how much input we can have, as a Commission."

**CARRAHER** "Before I speak, I would like to preface my remarks by stating that I am currently a CPO member and serve as the President of CPO Council 4 in the southwest part of the City.

For the record, I am against any changes on the CPO. I find, at least in my district, they are effective, but I also have come to accept the reality that there will be change and change will occur. Given that, it is probably going to be the case that if this board is going to recommend or go along with the proposed changes, then I would put forward the belief that we would have to change our meeting times to evenings. The reason why is that the purpose of CPO is to be a liaison between the Council and the Community, especially for those people who, because of their day schedule, cannot attend City Council meetings.

If we are to make these changes and take more of the CPO role onto the MAPC and not change our meeting times to the evening, then I feel that the citizenry at large is losing a conduit for themselves to be heard by the City. I hope that that is something that you all, as my colleagues, will consider whether or not we make a decision today or not.

I would also suggest that if possible, that everybody on the Commission does attend the public meeting, I believe it is on the 9<sup>th</sup>, and try to get a feel of what the task force's goals are, as well as members of the community, both those involved in CPO and those who aren't, but through their involvement interact with the CPOs. That is just my two cents' worth."

**JOHNSON** "I have a question, since you are on the CPO. In the meetings I have been to, there have been some that have been run very well and some that have been totally out of control and have almost become like pep rallies. By the time they leave there, they are so fired up by the time they walk in here, there is not way of reasoning with them. Since the CPOs are from the City and there are City appointees on the Planning Commission, what if the appointees of the City Council would control or chair the CPO meetings? Then, all of a sudden, they have contact with what happens here, what they can do, can't do. I am just trying to find out if they thought that would help or hurt that? I am not against night meetings, I am not against anything we are talking about. I was just seeing if we were to have one a month, you would make half of the people happy and the half that can't be there on that night, that will be the thing we will hear about. They would say that their meeting was held during the day. It is like a no-win situation."

**CARRAHER** "It would have to be all or nothing, time-wise. You would either have to have it in the afternoon or the evening. I feel that you need to have something constant. That way people can plan their schedules around the CPO meetings, especially when there is a volatile issue. And I do agree with you, CPO meetings are run different from district to district. I like to run a tight ship, so to say, giving people an opportunity to speak, but keep the meeting flowing at the same time. As you know, as the chairman, that isn't always easy to do.

But I have also seen meetings from other districts where it is a free-for-all. I believe that if the MAPC does take on more of the CPO role, we are still going to have people that call by, and I call them the 'I'm as mad as hell, and I am not going to take it anymore' people. You are probably going to see more of that because if a CPO meeting is ran effectively, those people may not agree with

you, but they leave a little bit more soothed. And then, by the time it comes to the MAPC, those people will still be a little bit angry, but they are not going to rant and rave."

**WARREN** "I have no problem with the CPO concept, but I think there is a problem with communications, a little bit, in that CPO members say there are 20 strong coming in here with a petition, it is like that is a mandate to this Commission that they have met and they have decided. What they don't realize is that we have to follow this book. And an applicant that comes in complies with the conditions, the rules and regulations of this book, we don't have any choice much but to go ahead."

Planning, zoning, subdivision and platting is not a thing of popularity always. It is not what somebody thinks it ought to be. It is governed by local code and statutory code and things like that. I think it is a matter of communication to tell the CPO that we are interested in your input, we love to have your input, we will probably modify, or stand, very often with that input, but it is not the final condition, and we may go against them."

**WHEELER** "I have a question of Chris. What other issues do you address in CPO? Are they primarily zoning issues, or are there other issues and roles in CPO that eat a lot of the time? I guess I don't know what the primary focus is, other than zoning."

**CARRAHER** "Zoning, acting as a liaison between the City and the neighborhood associations, especially since those have been burgeoning. Just intra-district concerns, as well as zoning that affects the district directly."

**WARREN** "But land use is probably one of the biggest issues, isn't it?"

**CARRAHER** "It depends on the district and what kind of development and how much development. Things could be happening in District 2 in the east that may be different from what is going on in District 1 in the northeast. So that is going to have a big effect. But there have been issues which all CPOs have dealt with. In my experience, serving on the last City's Redistricting Committee, that issue came up before all CPOs. A lot of the CPOs were unified on what should be done and how the Committee should go about it."

**MCKAY** "When Marvin first came out with the idea of him organizing the thing, I didn't know that I was so much in favor of it, because I thought it was a duplication of a bureaucracy situation, I mean the CPO and this, but it is an either/or. Yours may be an exception, but I have not been to very many CPO meetings where it didn't become a platform to organize either for or against whatever was being presented, it didn't make any difference what it was."

**WARREN** "And/or the legality of it."

**MCKAY** "And the thing I found out in so many cases, and I am sorry to say this, but so many people in the CPO, half of the time, don't even understand what they are talking about. If we are going to continue to have CPOs, then they ought to be required to do like we do, go through an orientation, explaining to them what their roles are. We have even had meetings of the CPOs here about our scheduling. We changed our scheduling for the CPOs, and we were told very politely by them that they were going to do whatever they wanted to do and to heck with us."

**CARRAHER** "I will have to agree that in some cases that not all CPOs or the members are based in rational thought process at all times."

**MCKAY** "And I haven't had good experiences, in the last 5 years, with the CPOs, being in the land development business. Even with the golf course out west, we had to lobby like crazy to do a project for the City of Wichita with the CPOs."

**CARRAHER** "And also, I see our experience likewise by members of the CPO. I think, and this is something that I have found even before I became a member of the MAPC, is that there seems to be an 'us/them' mentality between the MAPC and the respective CPOs. How it got started, I don't know, what encourages it, I don't know. It could be anything from territorial to goodness knows what."

But I think that is part of the breakdown that the basic belief is that CPO members in general don't care for the MAPC, and vice-versa. At least that is the conventional belief that I have seen floating out there."

**MICHAELIS** "Well, down here in the 'cheap seats', I guess, and like I have said, my experience is fairly limited, and my first impression is that I can almost see leaving the CPOs, but taking the zoning away from them because I really think that is the biggest issue. Maybe we could start there, as a step instead of abolishing the whole thing, and see if that doesn't appease some of the problems on both sides rather than just trying to come up with a whole new system that is totally different from what we have."

The second thing, and I know I am in the minority on this, but I am not in favor of the night meetings. The only reason is that it is not a question of being inconsiderate of the consumer and the person out there that can't make it, but I really feel like if something is important enough to that person, they will make time to get here. The thing that bothers, or scares me about that is that no longer than I have been here, we sit here and hear a zoning case and we hear 15 people get up and say 15 exact same things, phrased differently. If we go to a night deal, that number is going to go to 50."

**WARREN** "That's right."

**MICHAELIS** "And there is going to have to be some really stringent controls, so whoever is chairman is going to have to be very emphatic if somebody gets up and starts repeating what a previous person said, they are going to have to get cut off. That scares me about the night meetings."

**WARREN** "Me, too."

**CARRAHER** "You are right, and that is a concern that I have had through personal experience on CPO that the chair has to step in and maintain order, while at the same time, keep the meeting flowing and give those who wish to speak an opportunity. Those things don't always flow together well. In fact, a lot of times, they butt heads. So, yes, switching to night meetings could cause that."

**MICHAELIS** "Maybe we could do that once every six months or so, but boy, I sure would hate to see it be every other week."

**WARREN** "I am finding just a general interest in what we do up here, simply isn't there. People's interest becomes adamant when it affects them. In the Derby Planning Commission, if they don't have anything going on, nobody...nobody is in that room, ever. It is almost the same way with the City Council. Now, if it is controversial, or if it is something that affects somebody, they will come whether it is morning, noon or night. They will be there to make themselves heard. So I don't think we are going to gain anything by going to nights, at least not what some people think we will."

This old hue and cry of 'let's get more participation' is great, but in reality, it just doesn't work. They just don't come, unless they are affected."

**OSBORNE-HOWES** "Chris made a good point, though, that if you talk about abolishing the CPOs, and they are the ones that meet at night, and are the liaisons, something has to replace that."

**MICHAELIS** "That is a good point, and that is why I am kind of leaning toward leaving the CPOs because it is still a good vehicle for that person that can't make it to have contact with the city government, but I really feel that on zoning cases, quite frankly, they are probably not qualified to make a lot of those decisions. They don't have the facts that we have."

**KROUT** "At one time, this was several years ago, I suggested to the CPOs that maybe they just host an information meeting, but not to hold a hearing and take a vote. That shouldn't be their job. They weren't very interested in that."

**MCKAY** "Well, I think one thing that nobody has talked about yet, is that we are all representing somebody that is elected, and they appoint us. We have an allegiance to that person that appointed us. Those people are elected by the people and have no allegiance to anybody else but in their own mind. They don't know who voted for them, but in their own mind they are elected by those people, so they really don't have to have an allegiance to the City Council, nor an allegiance to this group."

**CARRAHER** "But they do have an accountability to the voters as opposed to the members of the MAPC. You could twist that argument around, on the opposite end."

**MCKAY** "Yes, but you still have an accountability to the voters at a higher level."

**WHEELER** "They are really accountable, too, though. If they make comments, like at a couple of meetings I have been to, that are very derogatory, very accusatory to a staff person, or they quote something about the process here that is totally inaccurate, what is their accountability to anyone? That is what I saw that was kind of scary."

**CARRAHER** "Yeah, there are times when people go off on rants, but it is public information, minutes are printed and distributed and are open to the public. Once in a while, on a controversial issue, you will have reporters from the Eagle to be there, although I know it is not the City's official newspaper, they are printed in the press. So there is accountability. Granted, it is not on a big marquee, but it is available."

**WHEELER** "Do they have legal liability if they take action that is inappropriate or state things that are technically incorrect? Do they have any legal liability to those that they affect?"

**CARRAHER** "Do you mean individual personal liability or do you mean as a body?"

**WHEELER** "As a body."

**CARRAHER** "Marvin, correct me if I am wrong. I don't know...if somebody made a slanderous statement, that would be personal. I am not an attorney, so..."

**WHEELER** "Maybe it is a staffing issue, or a staff education of that process. I assume that maybe the City Council vote, the two differences is that the CPOs are elected and City Council may be looking to appoint community involvement."

**MCKAY** "That is where a lot of it is coming from. Back to the control."

**CARRAHER** "Yes, it is."

**WARREN** "What I am hearing here now, though, makes me even more concerned about how we are going to focus this, now, on some kind of a recommendation."

**MCKAY** "I think it is going to have to go back to the deal when we were talking about the inner-city deal. I think we should get with the City and County, who is trying to change this and have an open forum and sit and visit."

**OSBORNE-HOWES** "It seems to me that a lot of this got started, also, because of the need to improve our image. That the Planning Commission wasn't sensitive enough to the neighbors, wasn't sensitive enough to other issues, and that it is the bi-product of the development industry. Now, I know we have had that discussion and I know it has been in the newspaper before. So, it seems to me that this is where a lot of this started, not just looking at improving the CPO, but looking at improving the process."

**MCKAY** "While we are talking about our meetings. Is there any way we could streamline our meetings? For example, now it is 10 minutes, and each person who wants to talk, whether it is for or against, gets 5 minutes. Is there any rule that says we can't hold them to 2 minutes?"

**KROUT** "You could change your by-laws to whatever Law would agree is still reasonable."

**MICHAELIS** "That one guy talked for 5 minutes and I didn't get anything out of it."

**KROUT** "Sometimes there have been an awful lot of people and you have voted, on a case-by-case basis for a lesser time. If you do not change your by-laws; you can still, by a 2/3 vote, go to some other amount of time they can talk."

**MCKAY** "I would rather let them have 2 minutes and then vote to give them 2 more minutes. And it is not necessarily as much the people. The thing that really makes me mad is the attorneys. They get up there and they think they are in court."

**KROUT** "I would say that that is a problem with the applicants usually, too."

**MCKAY** "Every time Bob Kaplan is going to be here, and you know, Bob Kaplan has represented me in a lot of things, but every time he shows up, you know it is going to be 10 to 15 minutes, regardless whether he is for it, against it, or whatever. He takes 15 minutes just to explain to you why he is here, before he even goes to the issue. That is the reason why I am saying that we need to limit it. Cut it down. We ask enough questions, I think, to make it clear."

**GAROFALO** "We could probably reduce the applicant's time. Maybe the applicant's time to 5 and the other to 2 or 3 minutes."

**WARREN** "If we would hold our questions for the proper time. A lot of times we are starting to talk when we still have an applicant up there, talking about things we need to talk about."

**WHEELER** "Yes, I agree."

**MCKAY** "Some of you were here when we were doing the public hearings at night for the park and pathways plan. That is the way that was handled. We had everybody come up and speak and the Commissioners sat there, and if they had a question of Mrs. Jones, who talked, they waited and called Mrs. Jones up to ask questions. It was amazing how it cut the questions down."

**WARREN** "Right. A lot of those questions get answered and you wouldn't have to ask your question."

**WHEELER** "Yes, and sometimes we are asking questions of staff before we have even heard the applicant, and we get into debating pros and cons then."

**MCKAY** "It still isn't as bad as when George Sherman and Chris Goebel were here."

**CARRAHER** "Another thing, I have looked over the proposed change. Something I have a concern about is the way the change would be implemented. If I remember correctly off hand, if this were to be approved as is, beginning in 2000, only 3 on each of the current members on each board would stay, but there is no explanation as to who would stay and who would go. We just had elections in April and we have had people elected to 4-year terms. Nobody has seemed to answer the question on a legal basis for removing somebody from office because of this change, especially since it is not as though somebody is being recalled from office."

**MCKAY** "Well, the office is being abolished."

**CARRAHER** "Is it? We don't know if it is being abolished or changed. Nobody has stated that. If you were to abolish CPOs, then that would be different, but it seems like if you were keeping 3 CPO members on, you wouldn't be abolishing it, it is being changed."

**WHEELER** "I think they are proposing to appoint the members."

**MCKAY** "I think they are saying to abolish the CPOs and create another body and let the Commissioner of that district appoint 3 of the CPO members of his or her choice."

**CARRAHER** "Well, that hasn't been stated or explained in any of the records that I have seen. There are some questions that need to be answered. If not, there could be some legal ramifications."

**GAROFALO** "Chris, I have one question for you. As a CPO president, your contact with the CPO members in your district, and probably others, too, how important is the zoning segment of the CPO's job, so to speak, to them?"

**CARRAHER** "I think that the majority of them being representatives or being involved in their neighborhood associations; when issues come up regarding zoning and how it affects the neighborhood, the members of the CPO, who are also neighborhood association members, give their undivided attention to concerns of the neighborhood."



I also see that there are benefits to a zoning issue coming before a CPO and an MAPC. Both of them. Because you get the neighborhood's slant, or the people who live in the neighborhood. You get a slant there, or an idea of their views and concerns, and up here, you also get a slant and to hear the concerns of business and industry. I believe that both are important views, and if there is some way that, and I hesitate to use the word compromise, but if there is some way a middle ground could be met, that would be better, before it goes on to the City Council."

**KROUT** "Why put people through a double hearing process, confuse them, give the City Council the option to say that they would pick from Column A this time and Column B next time? It is very confusing and disturbing to most citizens. They leave the CPO meeting thinking that they have the CPO's vote, so they can go home and forget it, and then they find out later that something was approved that they had no idea was going to be."

**MICHAELIS** "That is a very good point."

**CARRAHER** "Well, the chair is responsible. I tell people, after the vote, whether it goes their way or not, or my way or not, that they have that option. That would be the prerogative of the chair. Well, partially the chair, but also the public should make themselves aware of that. It is not a perfect system. It is not perfect now, and if we change it, it will not be perfect then. Some of those things in politics or civic life are left up to chance. That is just reality. I do respectfully disagree in that having both venues is a bad thing. I think it is a good thing. Yes, it may take the process a little bit longer, but it is a chance for two diverse bodies with different interests or what seems to be different interests, to debate, decide, pick apart an issue before it goes in for a final vote. And yes, an issue that we may approve in the CPO can be disapproved by the City Council, but that is part of the built-in of not only this City-County system, but in a lot of other political systems in the United States."

**WHEELER** "Marvin, are the CPOs held to the same criteria that we are on a zoning case? By statutes, are they held to the same accountability, or is it just how many likes this and likes that?"

**KROUT** "They are not in the statutes as part of the process, and they have told us before, a number of them, that they are not accountable to have to evaluate cases based on those criteria. Every time there is a new CPO election, we have tried to do an orientation for interested new members who will attend. What we find is that we get the same people coming back, maybe a third of the members, and those are the people who probably would pay attention, anyway, to what we had to say. It just doesn't matter to the other people. Most of the CPO members don't get an orientation, and there is so much turn-over."

**WHEELER** "Couldn't they, though, if they decided to keep CPOs in place, for whatever reason, couldn't the City Council, by ordinance or whatever, require them to be held accountable to the same decision process that we go through? To me, if they are going to give an opinion, it has to be based on the same things that we, and the City Council have to make a decision on. Otherwise, it is just not a valid opinion towards the same end."

**MCKAY** "But they are not. Maybe I am looking from the outside, but they are not. Whatever those 5 or 6 people decide they want to do, they don't have to have any rhyme or reason other than that those 6 people decide they want to do it, and 99% of the time it is a popularity contest for how many people show up."

**CARRAHER** "But that is where we come in as a check, like checks and balances."

**MCKAY** "In my opinion, that is not a check. Let me give you an example. We had an assisted living project out east. We had three meetings with Tallgrass East. They were all in favor of it. A police officer stands up and said that he was a police officer and that assisted living projects pay minimum wage, so those people can't make enough money to live on, so they are going to be selling drugs out of this place. Now, this was a cop! I hoped that he was going to come up here and say the same thing because I think that he might have been in trouble with his job. But he stood up in front of the CPO because there was no reason not to. And then, my friend Beth just ran like heck with it."

**WARREN** "The thing that concerns me about this whole thing is that I will bet 85 per cent of what we do here, by and large, in zoning involves business. Not too much of it is residential. Maybe 15%. So, mostly, our decisions affect business. We see towers, communication, zoning for commercial."

**MCKAY** "Just like Chris was saying...to them that is direct involvement in their neighborhood, whether it is business or residential."

**WARREN** "I understand, but what I guess I am saying is that we are lined up with a disproportionate display here, as one guy as an applicant and 20 people against him. Somehow, it is not fair. And we are influenced. We say we are not, but I guarantee you we are influenced by those 20 that are here that are opposing this. Now, they may not be opposing it based on this manual."

**MCKAY** "They don't know about that manual."

**WARREN** "No. They are opposing this because they don't want it."

**MICHAELIS** "They are opposing it because they are opposing it. Yeah. To me, the most mind-boggling thing in this whole city is Barefoot Bay. If somebody would have taken that development and had it in place and came along and said 'hey, Allen's concrete, I want you to come over here and build a concrete plant 300 feet from here', they would have pitched a fit to no end, but yet, because it was already there, it was okay. That is the typical mentality of the people when they go to these things. They don't really know about it, they don't understand it, they just oppose it."

**WARREN** "I see it as an anti-business environment. Now, I know that I get overboard, and you guys all see that, but I am suggesting that business needs some representation. It does. You talk about a minority. Business is in the minority."

**MICHAELIS** "Of course, I have been on the other side as a developer, but you are fighting an uphill battle all of the time."

**WARREN** "And I was a businessman long before I was a developer, so I am thinking about Ma and Pa and the little guy out here trying to make a living doing something. He is a businessman, and that is the guy I want to try to help because I don't see any help around here for him."

**MCKAY** "The people who suffer the most is the little guy who doesn't know the system."

**WARREN** "That's true."

**MCKAY** "If some poor little old guy decides to put an addition on a garage or something, and after Central Inspection gives him the permit, says 'you can't do that', and then they blame it on the planning staff because of some rule or regulation."

**WHEELER** "If they do restructure, or they do create a new entity, I think the most positive thing that could happen is to cultivate whether it is the objective of this advisory group or the attitude or the accountability or whatever, to have to work toward something positive rather than just maybe trying to oppose or change the negative in our community. I think neighborhood associations have been very effective in trying to bring about positive change with the neighborhoods. If that could carry forward, I could see input and issues on the Comprehensive Plan that could be very valuable from neighborhood and the CPO areas."

**KROUT** "And I think that is part of this concept; let's focus on some positive things and get away from the reactive things. When you are in zoning, you are always reacting to something. Let's get them involved in some positive activities, like award programs for good developments, and planning for our community and for our neighborhood and what it should look like, and what we want to see. That is the vision, I think."

**WHEELER** "That could funnel into a lot of departments, from park to recreation to utilities and the Capital Improvement Program and neighborhood issues. It could dovetail into, there is more work there than any CPO or community group probably would have time to do. There is a lot that could be done."

**KROUT** "But on the other hand, I think what the Council is also saying in this report is that if we take away that responsibility, then the Planning Commission has a bigger responsibility for citizen participation. And historically, and you can sit around and deny this, but historically, the Planning Commission has the reputation for not paying any attention to neighbors who come down here. Then if you look at the case history, that is what created this sort of counter balance. Here is the CPO and here is the Planning Commission, and then the City Council gets to pick between them; and they pick based on how many calls they got since the Planning Commission hearing, usually, who made the calls, and how influential they are. Willowbend residents would have more influence than residents at Pawnee and Water Streets."

**WARREN** "What you by and large have, though, and you might say it is the CPO and the Planning Commission, but by and large, its the CPO and big business, because 85% of our cases are business cases. What they are saying is 'you planners are not listening to us'. But we do have the obligation to represent a business guy, too. We've got to listen to them, but we've also got to listen to some guy who is trying to do something out in the marketplace."

**CARRAHER** "I was going to say, Ray, that it comes back to the us/them scenario. The CPO is seen as anti-business and the Planning Commission is seen as anti-neighborhood. That is the perception, and I see it being equal on both ends. Now, I believe that that is entirely true? No. Not at all, but there is that perception. If we take on the responsibility that the CPOs have now, we have to be prepared for a lot more work and a lot more people coming in to speak. Especially the protesting people, the NIMBY people. "

**MCKAY** "I don't see anything wrong with that."

**CARRAHER** "No, I don't see anything wrong with that, I am just saying that that is something that we all should consider before making a recommendation."

**WHEELER** "We have the obligation for that now by state statute to have public input. We hold a public hearing. We have that responsibility today, so I don't see that as changing. We have that responsibility today. Very few communities have CPOs, and we have that responsibility, so whether a CPO is here or not, our responsibility, by state statute is the same."

**CARRAHER** "What I am saying is that from experience, people that go to a CPO meeting, whether they agree with the issue or not generally do not come to the subsequent MAPC meeting or not as many of them do. All I am going to say is that if you get rid of the CPO, those people are going to come straight here and you are going to have to put in more time. I am just saying that if you are willing to make that change that you should be prepared for that. I am not saying whether to do it or not. I am just saying to be prepared for that."

**OSBORNE-HOWES** "They want their day in court."

**CARRAHER** "Right."

**KROUT** "And they will come unprepared because they do at least learn something through the CPO process when they go to those meetings. Although that is an imperfect process, too. I mean there is a lot of misinformation sometimes that occurs at those CPO meetings."

**WHEELER** "Well we don't, today, circumvent public input just because there is a CPO out there. We hear anyone that shows up to speak whether they have spoken before or not."

**HENTZEN** "Marvin and Chris implied that the CPOs or the attitude out there is that they don't like, or don't appreciate the MAPC. I don't think that is true. I want to tell you something that I do believe is true. We saw it in the consolidation hearings, or debates, and that is the obnoxious treatment that the City of Wichita has earned over the last 25 years. You look at any of the other 18 small cities, and every one of them will be reserved about giving the City of Wichita any more authority. Think about that. An example of that was the Airport Authority thing the other day. They probably arrived at the right answer, but it was just trouble was what it was."

And the other thing I would like for you to think about is if they do away with the CPOs, and transfer that function, which we already have, on zoning cases, and it results in a lot longer meetings, and a lot more people coming up here, and they want us to do it at night because they don't want to hear those people, and I am talking about the City Council, they don't want to hear them in the daytime or the night time, and they are the ones that are getting paid. (Laughter) And let me tell you, their meetings don't last as long as ours."

So, I just wonder what the hell we are thinking about? I don't know whether the CPOs are good, bad, or indifferent, but I do know that they don't have any legal structure in the statutes. Sometimes we say, I have heard it here, that they are not held accountable. Anyway, I just don't think, as I stated earlier, that the MAPC has earned an offensive status. I think most of the citizens don't even know what the MAPC does. Now the people who have to come before us to try to do a business deal know us, like if they have to come up here and get a permit."

**WARREN** "We got questionably sued, is that suit dropped, Marvin? Did that get settled?"

**KROUT** "I don't think it is settled yet."

**WARREN** "Anyway, it was a good example. We have to follow this rule the same as everybody else that comes before us. We help people through the process and we make sure that they follow the rule. We have to follow it, too. And when a guy goes in, and it is a Subdivision regulation and he dots his 'i's and crosses his 't's' and meets all of the requirements, it may not be popular, but we have to approve it. That is all there is to it."

**JOHNSON** "We could continue this another day, I think. I will take a motion to adjourn."

**MOTION:** That the Metropolitan Area Planning Commission adjourn.

**CARRAHER** moved, **GAROFALO** seconded the motion, and it carried unanimously.

-----  
The meeting formally adjourned at 5:25 p.m.

State of Kansas     )  
Sedgwick County    ) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)